

MONROE COUNTY CLERK'S OFFICE

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Return To:  
ROBERT Y. LEWISGiovati, Jake  
A., R.  
Green, James  
S., M.  
S., F.Diocese of Rochester  
St. Christopher's Church  
St. Bridget's Church  
St. Leo the Great Catholic Church  
St. Francis Xavier Church

|                              |          |              |
|------------------------------|----------|--------------|
| State Fee Index Number       | \$165.00 |              |
| County Fee Index Number      | \$26.00  |              |
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| State Fee Records            | \$4.75   | Employee: JM |
| Management                   |          |              |

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State of New York

MONROE COUNTY CLERK'S OFFICE  
WARNING – THIS SHEET CONSTITUTES THE CLERKS  
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &  
SECTION 319 OF THE REAL PROPERTY LAW OF THE  
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ADAM J BELLO

MONROE COUNTY CLERK



NEW YORK STATE SUPREME COURT  
MONROE COUNTY

-----X

JAKE GIOVATI; R.A.; JAMES GREEN; M.S.; F.S.;  
JOHN PEVC; J.K.; S.N.; S.B.; J.W.; KEVIN HIGLEY;  
and JAMES LENNOX,

Index No.: \_\_\_\_\_

Date Filed: \_\_\_\_\_

**SUMMONS**

Plaintiffs,

Plaintiffs designate Monroe  
County as the place of trial.

-against-

DIOCESE OF ROCHESTER; ST. CHRISTOPHER'S  
CHURCH; ST. BRIDGET'S CHURCH; ST. LEO THE  
GREAT CATHOLIC CHURCH; ST. FRANCIS XAVIER  
CHURCH; ST. BRIDGET'S CHURCH AND SCHOOL;  
GOOD SHEPHERD PARISH AND SCHOOL; HOLY  
ROSARY CHURCH AND SCHOOL; ST. BONIFACE  
CHURCH AND SCHOOL; CARDINAL MOONEY  
HIGH SCHOOL; MCQUAID JESUIT HIGH SCHOOL;  
ST. MARY OF THE ASSUMPTION; and, CHURCH OF  
THE ANNUNCIATION,

The basis of venue is one  
defendant's residence.

**Child Victims Act Proceeding**  
**22 NYCRR 202.72**

Defendants.

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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 plaintiffs' attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 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.

Dated: August 14, 2019

Respectfully Yours,

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By

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Attorneys for Plaintiffs

NEW YORK STATE SUPREME COURT  
MONROE COUNTY

-----X  
JAKE GIOVATI; R.A.; JAMES GREEN; M.S.; F.S.;  
JOHN PEVC; J.K.; S.N.; S.B.; J.W.; KEVIN HIGLEY;  
and, JAMES LENNOX;

Index No.: \_\_\_\_\_/\_\_\_\_

**COMPLAINT**

Plaintiffs,

-against-

**Child Victims Act Proceeding**  
**22 NYCRR 202.72**

DIOCESE OF ROCHESTER; ST. CHRISTOPHER'S  
CHURCH; ST. BRIDGET'S CHURCH; ST. LEO THE  
GREAT CATHOLIC CHURCH; ST. FRANCIS XAVIER  
CHURCH; ST. BRIDGET'S CHURCH AND SCHOOL;  
GOOD SHEPHERD PARISH AND SCHOOL; HOLY  
ROSARY CHURCH AND SCHOOL; ST. BONIFACE  
CHURCH AND SCHOOL; CARDINAL MOONEY  
HIGH SCHOOL; MCQUAID JESUIT HIGH SCHOOL;  
ST. MARY OF THE ASSUMPTION; and, CHURCH OF  
THE ANNUNCIATION,

Defendants.

Plaintiffs, by and through their attorneys, the Marsh Law Firm PLLC and Pfau Cochran  
Vertetis Amala PLLC, respectfully allege for their complaint the following:

**I. INTRODUCTION**

1. The Diocese of Rochester (the "Diocese") knew for decades that its priests, clergy, religious brother, school administrator, or teachers, religious sisters, school administrators, teachers, employees, and volunteers were using their positions within the Diocese to groom and to sexually abuse children. Despite that knowledge, the Diocese failed to take reasonable steps to protect children from being sexually abused and actively concealed the abuse.

2. In July 2019, following decades of denial and cover-up, the Diocese released a list of 26 priests that it determined had been credibly accused of sexual abusing children. Based on the Diocese's years of wrongful conduct, a reasonable person could and would conclude that it

knowingly and recklessly disregarded the abuse of children and chose to protect its reputation and wealth over those who deserved protection. The result is not surprising: hundreds, if not thousands, of children were sexually abused by Catholic clergy and others who served the Diocese. The plaintiffs in this lawsuit are some of those children who were sexually abused because of the Diocese's wrongful conduct.

## **II. PROCEEDING IN ACCORDANCE WITH CPLR 214-G AND 22 NYCRR 202.72**

3. This complaint is filed pursuant to the Child Victims Act (CVA) 2019 Sess. Law News of N.Y. Ch. 11 (S. 2440), CPLR 214-G, and 22 NYCRR 202.72. The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, each plaintiff's claims were time-barred the day they turned 22 years old. The enactment of the CVA allows plaintiffs, for the first time in their lives, to pursue restorative justice in New York State.

## **III. PARTIES**

4. Plaintiff Jake Giovati is an adult male who currently resides in Grand Island, New York.

5. Upon information and belief, the Diocese is currently a not-for-profit religious corporation organized under New York law with its principal office in Rochester, New York.

6. Upon information and belief, at all relevant times the Diocese conducted business as the "Diocese of Rochester" or "Rochester Diocese."

7. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff Jake Giovati and his family.

8. Upon information and belief, Father Robert O'Neill ("Father O'Neill") was a priest employed by the Diocese to serve Catholic families, including plaintiff Jake Giovati and his

family. During the time Father O'Neill was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff Jake Giovati.

9. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father O'Neill used his position as a priest to sexually abuse plaintiff Jake Giovati, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

10. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father O'Neill used his position as a priest to sexually abuse plaintiff Jake Giovati, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

11. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the "Diocese."

12. Upon information and belief, at all relevant times defendant St. Christopher's Church ("St. Christopher's") was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

13. Upon information and belief, St. Christopher's is currently a not-for-profit religious corporation organized under New York law with its principal office in North Chili, New York.

14. Upon information and belief, at all relevant times St. Christopher's conducted business as "St. Christopher's Church" or "St. Christopher's."

15. St. Christopher's is a parish with a church located in North Chili, New York.

16. Upon information and belief, Father Robert O'Neill was a priest employed by St. Christopher's to serve Catholic families in its geographic jurisdiction, including plaintiff Jake

Giovati and his family. During the time Father Robert O'Neill was employed by St. Christopher's, he used his position as a priest to groom and to sexually abuse plaintiff Jake Giovati.

17. To the extent that St. Christopher's was a different entity, corporation, or organization during the period of time during which Father O'Neill used his position as a priest to sexually abuse Jake, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

18. To the extent St. Christopher's is a successor to a different entity, corporation, or organization which existed during the period of time during which Father O'Neill used his position as a priest to sexually abuse Jake, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

19. All such St. Christopher's-related entities, corporations, or organizations are collectively referred to herein as "St. Christopher's."

20. Plaintiff R.A. is an adult male who currently resides in Port Richey, Florida.

21. While he was a minor, plaintiff R.A. was a victim of one or more criminal sex acts in the State of New York. Since such criminal violation is the basis for this action, plaintiff R.A. is entitled to the protection of Civil Rights Law 50-b and will file a motion asking this Court for permission to proceed using a pseudonym.

22. In the alternative, plaintiff R.A. will seek a stipulation from the defendants agreeing to enter into a protective order which will ensure that his identity is protected from the public while allowing the defendants full access to information necessary for their defense.

23. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff R.A. and his family.



24. Upon information and belief, Father Francis Vogt ("Father Vogt") was a priest employed by the Diocese to serve Catholic families, including plaintiff R.A. and his family. During the time Father Vogt was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff R.A.

25. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Vogt used his position as a priest to sexually abuse plaintiff R.A., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

26. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Vogt used his position as a priest to sexually abuse plaintiff R.A., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

27. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the "Diocese."

28. Upon information and belief, at all relevant times defendant St. Bridget's Church ("St. Bridget's") was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

29. Upon information and belief, St. Bridget's is currently a not-for-profit religious corporation organized under New York law with its principal office in Rochester, New York.

30. Upon information and belief, at all relevant times St. Bridget's conducted business as "St. Bridget's Church and School," "St. Bridget's Church," "St. Bridget's School," or "St. Bridget's."

31. St. Bridget's is a parish with a church and school located in Rochester, New York.

32. Upon information and belief, Father Francis Vogt was a priest employed by St. Bridget's to serve Catholic families in its geographic jurisdiction, including plaintiff R.A. and his family. During the time Father Francis Vogt was employed by St. Bridget's, he used his position as a priest to groom and to sexually abuse plaintiff R.A.

33. To the extent that St. Bridget's was a different entity, corporation, or organization during the period of time during which Father Vogt used his position as a priest to sexually abuse R.A., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

34. To the extent St. Bridget's is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Vogt used his position as a priest to sexually abuse R.A., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

35. All such St. Bridget's-related entities, corporations, or organizations are collectively referred to herein as "St. Bridget's."

36. Plaintiff James Green is an adult male who currently resides in Rochester, New York.

37. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff James Green and his family.

38. Upon information and belief, Father Jacob Rauber ("Father Rauber") was a priest employed by the Diocese to serve Catholic families, including plaintiff James Green and his family. During the time Father Rauber was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff James Green.

39. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Rauber used his position as a priest to sexually abuse plaintiff James Green, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

40. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Rauber used his position as a priest to sexually abuse plaintiff James Green, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

41. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the "Diocese."

42. Upon information and belief, at all relevant times defendant St. Leo the Great Catholic Church ("St. Leo's") was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

43. Upon information and belief, St. Leo's is currently a not-for-profit religious corporation organized under New York law with its principal office in Hilton, New York.

44. Upon information and belief, at all relevant times St. Leo's conducted business as "St. Leo the Great Catholic Church," "St. Leo the Great," or "St. Leo's."

45. St. Leo's is a parish with a church located in Hilton, New York.

46. Upon information and belief, Father Jacob Rauber was a priest employed by St. Leo's to serve Catholic families in its geographic jurisdiction, including plaintiff James Green and his family. During the time Father Jacob Rauber was employed by St. Leo's, he used his position as a priest to groom and to sexually abuse plaintiff James Green.

47. To the extent that St. Leo's was a different entity, corporation, or organization during the period of time during which Father Rauber used his position as a priest to sexually abuse James, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

48. To the extent St. Leo's is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Rauber used his position as a priest to sexually abuse James, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

49. All such St. Leo's-related entities, corporations, or organizations are collectively referred to herein as "St. Leo's."

50. Plaintiff M.S. is an adult male who currently resides in Rochester, New York.

51. While he was a minor, plaintiff M.S. was a victim of one or more criminal sex acts in the State of New York. Since such criminal violation is the basis for this action, plaintiff M.S. is entitled to the protection of Civil Rights Law 50-b and will file a motion asking this Court for permission to proceed using a pseudonym.

52. In the alternative, plaintiff M.S. will seek a stipulation from the defendants agreeing to enter into a protective order which will ensure that his identity is protected from the public while allowing the defendants full access to information necessary for their defense.

53. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff M.S. and his family.

54. Upon information and belief, Father Joseph Beatini ("Father Beatini") was a priest employed by the Diocese to serve Catholic families, including plaintiff M.S. and his family.

During the time Father Beatini was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff M.S.

55. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Beatini used his position as a priest to sexually abuse plaintiff M.S., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

56. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Beatini used his position as a priest to sexually abuse plaintiff M.S., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

57. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the "Diocese."

58. Upon information and belief, at all relevant times defendant St. Francis Xavier Church ("St. Francis") was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

59. Upon information and belief, St. Francis is currently a not-for-profit religious corporation organized under New York law with its principal office in Rochester, New York.

60. Upon information and belief, at all relevant times St. Francis conducted business as "St. Francis Xavier Church" or "St. Francis."

61. St. Francis is a parish with a church located in Rochester, New York.

62. Upon information and belief, Father Joseph Beatini was a priest employed by St. Francis to serve Catholic families in its geographic jurisdiction, including plaintiff M.S. and his

family. During the time Father Joseph Beatini was employed by St. Francis, he used his position as a priest to groom and to sexually abuse plaintiff M.S.

63. To the extent that St. Francis was a different entity, corporation, or organization during the period of time during which Father Beatini used his position as a priest to sexually abuse M.S., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

64. To the extent St. Francis is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Beatini used his position as a priest to sexually abuse M.S., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

65. All such St. Francis-related entities, corporations, or organizations are collectively referred to herein as "St. Francis."

66. Plaintiff F.S. is an adult male who currently resides in Rochester, New York.

67. While he was a minor, plaintiff F.S. was a victim of one or more criminal sex acts in the State of New York. Since such criminal violation is the basis for this action, plaintiff F.S. is entitled to the protection of Civil Rights Law 50-b and will file a motion asking this Court for permission to proceed using a pseudonym.

68. In the alternative, plaintiff F.S. will seek a stipulation from the defendants agreeing to enter into a protective order which will ensure that his identity is protected from the public while allowing the defendants full access to information necessary for their defense.

69. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff F.S. and his family.

70. Upon information and belief, Father Francis Vogt ("Father Vogt") was a priest employed by the Diocese to serve Catholic families, including plaintiff F.S. and his family. During the time Father Vogt was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff F.S.

71. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Vogt used his position as a priest to sexually abuse plaintiff F.S., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

72. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Vogt used his position as a priest to sexually abuse plaintiff F.S., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

73. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the "Diocese."

74. Upon information and belief, at all relevant times defendant St. Bridget's Church and School ("St. Bridget's") was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

75. Upon information and belief, St. Bridget's is currently a not-for-profit religious corporation organized under New York law with its principal office in Rochester, New York.

76. Upon information and belief, at all relevant times St. Bridget's conducted business as "St. Bridget's Church and School," "St. Bridget's Church," "St. Bridget's School," or "St. Bridget's."

77. St. Bridget's is a parish with a church and school located in Rochester, New York.

78. Upon information and belief, Father Francis Vogt was a priest employed by St. Bridget's to serve Catholic families in its geographic jurisdiction, including plaintiff F.S. and his family. During the time Father Francis Vogt was employed by St. Bridget's, he used his position as a priest to groom and to sexually abuse plaintiff F.S.

79. To the extent that St. Bridget's was a different entity, corporation, or organization during the period of time during which Father Vogt used his position as a priest to sexually abuse F.S., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

80. To the extent St. Bridget's is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Vogt used his position as a priest to sexually abuse F.S., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

81. All such St. Bridget's-related entities, corporations, or organizations are collectively referred to herein as "St. Bridget's."

82. Plaintiff John Pevc is an adult male who currently resides in Rochester, New York.

83. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff John Pevc and his family.

84. Upon information and belief, Father Robert Miller ("Father Miller") was a priest employed by the Diocese to serve Catholic families, including plaintiff John Pevc and his family. During the time Father Miller was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff John Pevc.



85. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Miller used his position as a priest to sexually abuse plaintiff John Pevc, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

86. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Miller used his position as a priest to sexually abuse plaintiff John Pevc, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

87. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the “Diocese.”

88. Upon information and belief, at all relevant times defendant Good Shepherd Church and School (“Good Shepherd”) was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

89. Upon information and belief, Good Shepherd is currently a not-for-profit religious corporation organized under New York law with its principal office in Henrietta, New York.

90. Upon information and belief, at all relevant times Good Shepherd conducted business as “Good Shepherd Church and School,” “Good Shepherd Church,” “Good Shepherd School,” or “Good Shepherd.”

91. Good Shepherd is a parish with a church and school located in Henrietta, New York.

92. Upon information and belief, Father Robert Miller was a priest employed by Good Shepherd to serve Catholic families in its geographic jurisdiction, including plaintiff John Pevc

and his family. During the time Father Robert Miller was employed by Good Shepherd, he used his position as a priest to groom and to sexually abuse plaintiff John Pevc.

93. To the extent that Good Shepherd was a different entity, corporation, or organization during the period of time during which Father Miller used his position as a priest to sexually abuse John, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

94. To the extent Good Shepherd is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Miller used his position as a priest to sexually abuse John, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

95. All such Good Shepherd-related entities, corporations, or organizations are collectively referred to herein as "Good Shepherd."

96. Plaintiff J.K. is an adult female who currently resides in Canandaigua, NY.

97. While she was a minor, plaintiff J.K. was a victim of one or more criminal sex acts in the State of New York. Since such criminal violation is the basis for this action, plaintiff J.K. is entitled to the protection of Civil Rights Law 50-b and will file a motion asking this Court for permission to proceed using a pseudonym.

98. In the alternative, plaintiff J.K. will seek a stipulation from the defendants agreeing to enter into a protective order which will ensure that her identity is protected from the public while allowing the defendants full access to information necessary for their defense.

99. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff J.K. and her family.

100. Upon information and belief, Father Robert A. Meng (“Father Meng”) was a priest employed by the Diocese to serve Catholic families, including plaintiff J.K. and her family. During the time Father Meng was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff J.K.

101. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Meng used his position as a priest to sexually abuse plaintiff J.K., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

102. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Meng used his position as a priest to sexually abuse plaintiff J.K., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

103. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the “Diocese.”

104. Upon information and belief, at all relevant times defendant Holy Rosary Church and School (“Holy Rosary”) was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

105. Upon information and belief, Holy Rosary is currently a not-for-profit religious corporation organized under New York law with its principal office in Rochester, New York.

106. Upon information and belief, at all relevant times Holy Rosary conducted business as “Holy Rosary Church and School,” “Holy Rosary Church,” “Holy Rosary School,” and “Holy Rosary.”

107. Holy Rosary is a parish with a church and school located in Rochester, New York.

108. Upon information and belief, Father Robert A. Meng was a priest employed by Holy Rosary to serve Catholic families in its geographic jurisdiction, including plaintiff J.K. and her family. During the time Father Robert A. Meng was employed by Holy Rosary, he used his position as a priest to groom and to sexually abuse plaintiff J.K.

109. To the extent that Holy Rosary was a different entity, corporation, or organization during the period of time during which Father Meng used his position as a priest to sexually abuse J.K., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

110. To the extent Holy Rosary is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Meng used his position as a priest to sexually abuse J.K., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

111. All such Holy Rosary-related entities, corporations, or organizations are collectively referred to herein as "Holy Rosary."

112. Plaintiff S.N. is an adult male who currently resides in Rochester, New York.

113. While he was a minor, plaintiff S.N. was a victim of one or more criminal sex acts in the State of New York. Since such criminal violation is the basis for this action, plaintiff S.N. is entitled to the protection of Civil Rights Law 50-b and will file a motion asking this Court for permission to proceed using a pseudonym.

114. In the alternative, plaintiff S.N. will seek a stipulation from the defendants agreeing to enter into a protective order which will ensure that his identity is protected from the public while allowing the defendants full access to information necessary for their defense.

115. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff S.N. and his family.

116. Upon information and belief, Father Robert O'Neill ("Father O'Neill") was a priest employed by the Diocese to serve Catholic families, including plaintiff S.N. and his family. During the time Father O'Neill was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff S.N.

117. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father O'Neill used his position as a priest to sexually abuse plaintiff S.N., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

118. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father O'Neill used his position as a priest to sexually abuse plaintiff S.N., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

119. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the "Diocese."

120. Upon information and belief, at all relevant times defendant St. Boniface Church and School ("St. Boniface") was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

121. Upon information and belief, St. Boniface is currently a not-for-profit religious corporation organized under New York law with its principal office in Rochester, New York.

122. Upon information and belief, at all relevant times St. Boniface conducted business as “St. Boniface Church and School,” “St. Boniface Church,” “St. Boniface School,” or “St. Boniface.”

123. St. Boniface is a parish with a church and school located in Rochester, New York.

124. Upon information and belief, Father Robert O’Neill was a priest employed by St. Boniface to serve Catholic families in its geographic jurisdiction, including plaintiff S.N. and his family. During the time Father Robert O’Neill was employed by St. Boniface, he used his position as a priest to groom and to sexually abuse plaintiff S.N.

125. To the extent that St. Boniface was a different entity, corporation, or organization during the period of time during which Father O’Neill used his position as a priest to sexually abuse S.N., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

126. To the extent St. Boniface is a successor to a different entity, corporation, or organization which existed during the period of time during which Father O’Neill used his position as a priest to sexually abuse S.N., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

127. All such St. Boniface-related entities, corporations, or organizations are collectively referred to herein as “St. Boniface.”

128. Plaintiff S.B. is an adult male who currently resides in Pittsford, New York.

129. While he was a minor, plaintiff S.B. was a victim of one or more criminal sex acts in the State of New York. Since such criminal violation is the basis for this action, plaintiff S.B. is entitled to the protection of Civil Rights Law 50-b and will file a motion asking this Court for permission to proceed using a pseudonym.

130. In the alternative, plaintiff S.B. will seek a stipulation from the defendants agreeing to enter into a protective order which will ensure that his identity is protected from the public while allowing the defendants full access to information necessary for their defense.

131. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff S.B. and his family.

132. Upon information and belief, Brother John Walsh ("Brother Walsh") was a religious brother, school administrator, or teacher employed by the Diocese to serve Catholic families, including plaintiff S.B. and his family. During the time Brother Walsh was employed by the Diocese, he used his position as a religious brother, school administrator, or teacher to groom and to sexually abuse plaintiff S.B.

133. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Brother Walsh used his position as a religious brother, school administrator, or teacher to sexually abuse plaintiff S.B., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

134. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Brother Walsh used his position as a religious brother, school administrator, or teacher to sexually abuse plaintiff S.B., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

135. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the "Diocese."

136. Upon information and belief, at all relevant times defendant Cardinal Mooney High School (“Cardinal Mooney”) was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

137. Upon information and belief, Cardinal Mooney is currently a not-for-profit religious corporation organized under New York law with its principal office in Rochester, New York.

138. Upon information and belief, at all relevant times Cardinal Mooney conducted business as “Cardinal Mooney High School” or “Cardinal Mooney.”

139. Cardinal Mooney is a Catholic school located in Rochester, New York.

140. Upon information and belief, Brother John Walsh was a religious brother, school administrator, or teacher employed by Cardinal Mooney to serve Catholic families in its geographic jurisdiction, including plaintiff S.B. and his family. During the time Brother John Walsh was employed by Cardinal Mooney, he used his position as a religious brother, school administrator, or teacher to groom and to sexually abuse plaintiff S.B.

141. To the extent that Cardinal Mooney was a different entity, corporation, or organization during the period of time during which Brother Walsh used his position as a religious brother, school administrator, or teacher to sexually abuse S.B., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

142. To the extent Cardinal Mooney is a successor to a different entity, corporation, or organization which existed during the period of time during which Brother Walsh used his position as a religious brother, school administrator, or teacher to sexually abuse S.B., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.



143. All such Cardinal Mooney-related entities, corporations, or organizations are collectively referred to herein as “Cardinal Mooney.”

144. Plaintiff J.W. is an adult male who currently resides in Johns Creek, Georgia.

145. While he was a minor, plaintiff J.W. was a victim of one or more criminal sex acts in the State of New York. Since such criminal violation is the basis for this action, plaintiff J.W. is entitled to the protection of Civil Rights Law 50-b and will file a motion asking this Court for permission to proceed using a pseudonym.

146. In the alternative, plaintiff J.W. will seek a stipulation from the defendants agreeing to enter into a protective order which will ensure that his identity is protected from the public while allowing the defendants full access to information necessary for their defense.

147. Upon information and belief, at all relevant times the Diocese employed priests and others who served various Catholic institutions and families, including plaintiff J.W. and his family.

148. Upon information and belief, Father William O'Malley (“Father O'Malley”) was a priest employed by the Diocese to serve Catholic families, including plaintiff J.W. and his family. During the time Father O'Malley was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff J.W.

149. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father O'Malley used his position as a priest to sexually abuse plaintiff J.W., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

150. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father O'Malley used his

position as a priest to sexually abuse plaintiff J.W., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

151. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the “Diocese.”

152. Upon information and belief, at all relevant times defendant McQuaid Jesuit High School (“McQuaid”) was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

153. Upon information and belief, McQuaid is currently a not-for-profit religious corporation organized under New York law with its principal office in Rochester, New York.

154. Upon information and belief, at all relevant times McQuaid conducted business as “McQuaid Jesuit High School,” “McQuaid High School,” or “McQuaid.”

155. McQuaid is a Catholic high school located in Rochester, New York.

156. Upon information and belief, Father William O’Malley was a priest employed by McQuaid to serve Catholic families in its geographic jurisdiction, including plaintiff J.W. and his family. During the time Father William O’Malley was employed by McQuaid, he used his position as a priest to groom and to sexually abuse plaintiff J.W.

157. To the extent that McQuaid was a different entity, corporation, or organization during the period of time during which Father O'Malley used his position as a priest to sexually abuse J.W., such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

158. To the extent McQuaid is a successor to a different entity, corporation, or organization which existed during the period of time during which Father O'Malley used his

position as a priest to sexually abuse J.W., such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

159. All such McQuaid-related entities, corporations, or organizations are collectively referred to herein as “McQuaid.”

160. Plaintiff Kevin Higley is an adult male who currently resides in Lakeland, Florida.

161. Upon information and belief, at all relevant times the Diocese employed priests and/or others who served various Catholic institutions and families, including plaintiff Kevin Higley and his family.

162. Upon information and belief, Father Paul Cloonan (“Father Cloonan”) was a priest employed by the Diocese to serve Catholic families, including plaintiff Kevin Higley and his family. During the time Father Cloonan was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff Kevin Higley.

163. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Cloonan used his position as a priest to sexually abuse plaintiff Kevin Higley, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

164. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Cloonan used his position as a priest to sexually abuse plaintiff Kevin Higley, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

165. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the “Diocese.”

166. Upon information and belief, at all relevant times defendant St. Mary of the Assumption (“St. Mary’s”) was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

167. Upon information and belief, St. Mary’s is currently a not-for-profit religious corporation organized under New York law with its principal office in Scottsville, New York.

168. Upon information and belief, at all relevant times St. Mary’s conducted business as “St. Mary of the Assumption” or “St. Mary’s.”

169. St. Mary’s is a parish with a church located in Scottsville, New York.

170. Upon information and belief, Father Paul Cloonan was a priest employed by St. Mary’s to serve Catholic families in its geographic jurisdiction, including plaintiff Kevin Higley and his family. During the time Father Paul Cloonan was employed by St. Mary’s, he used his position as a priest to groom and to sexually abuse plaintiff Kevin Higley.

171. To the extent that St. Mary’s was a different entity, corporation, or organization during the period of time during which Father Cloonan used his position as a priest to sexually abuse Kevin, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

172. To the extent St. Mary’s is a successor to a different entity, corporation, or organization which existed during the period of time during which Father Cloonan used his position as a priest to sexually abuse Kevin, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

173. All such St. Mary’s-related entities, corporations, or organizations are collectively referred to herein as “St. Mary’s.”

174. Plaintiff James Lennox is an adult male who currently resides in Webster, New York.

175. Upon information and belief, at all relevant times the Diocese employed priests and/or others who served various Catholic institutions and families, including plaintiff James Lennox and his family.

176. Upon information and belief, Father Robert O'Neill ("Father O'Neill") was a priest employed by the Diocese to serve Catholic families. During the time Father O'Neill was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff James Lennox.

177. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father O'Neill used his position as a priest to sexually abuse plaintiff James Lennox, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

178. To the extent the Diocese is a successor to a different entity, corporation, or organization which existed during the period of time during which Father O'Neill used his position as a priest to sexually abuse plaintiff James Lennox, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

179. All such Diocese-related entities, corporations, or organizations are collectively referred to herein as the "Diocese."

180. Upon information and belief, at all relevant times defendant Church of the Annunciation ("Annunciation") was a not-for-profit religious corporation organized under New York law and wholly owned, operated, and controlled by the Diocese.

181. Upon information and belief, Annunciation is currently a not-for-profit religious corporation organized under New York law with its principal office in Rochester, New York.

182. Upon information and belief, at all relevant times Annunciation conducted business as “Church of the Annunciation” or “Annunciation Church.”

183. Annunciation is a parish with a church located in Rochester, New York.

184. Upon information and belief, Father Robert O'Neill was a priest employed by Annunciation to serve Catholic families in its geographic jurisdiction. During the time Father Robert O'Neill was employed by Annunciation, he used his position as a priest to groom and to sexually abuse plaintiff James Lennox.

185. To the extent that Annunciation was a different entity, corporation, or organization during the period of time during which Father O'Neill used his position as a priest to sexually abuse James, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

186. To the extent Annunciation is a successor to a different entity, corporation, or organization which existed during the period of time during which Father O'Neill used his position as a priest to sexually abuse James, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

187. All such Annunciation-related entities, corporations, or organizations are collectively referred to herein as “Annunciation.”

#### IV. VENUE

188. Venue is proper because the Diocese is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

189. Venue is proper because St. Christopher's is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

190. Venue is proper because St. Bridget's is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

191. Venue is proper because St. Leo's is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

192. Venue is proper because plaintiff James Green currently resides in Monroe County.

193. Venue is proper because St. Francis is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

194. Venue is proper because plaintiff M.S. currently resides in Monroe County.

195. Venue is proper because St. Bridget's is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

196. Venue is proper because plaintiff F.S. currently resides in Monroe County.

197. Venue is proper because Good Shepherd is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

198. Venue is proper because plaintiff John Pevc currently resides in Monroe County.

199. Venue is proper because Holy Rosary is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

200. Venue is proper because St. Boniface is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

201. Venue is proper because plaintiff S.N. currently resides in Monroe County.

202. Venue is proper because Cardinal Mooney is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

203. Venue is proper because plaintiff S.B. currently resides in Monroe County.

204. Venue is proper because McQuaid is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

205. Venue is proper because St. Mary's is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

206. Venue is proper because Annunciation is a domestic corporation authorized to transact business in New York with its principal office located in Monroe County.

207. Venue is proper because plaintiff James Lennox currently resides in Monroe County.

208. Venue is proper because Monroe is the county in which a substantial part of the events or omissions giving rise to each plaintiff's claim occurred.

**V. STATEMENT OF FACTS AS TO PLAINTIFF R.A.**

209. Upon information and belief, at all relevant times the Diocese was the owner of St. Bridget's and held itself out to the public as the owner of St. Bridget's.

210. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Bridget's.

211. Upon information and belief, at all relevant times the Diocese employed priests and others who served Catholic families at St. Bridget's, including plaintiff R.A. and his family.

212. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Bridget's, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled St. Bridget's.

213. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at St. Bridget's.



214. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at St. Bridget's.

215. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of St. Bridget's, including the services of Father Vogt and the services of those who managed and supervised Father Vogt.

216. Upon information and belief, at all relevant times St. Bridget's owned a parish, church, and school.

217. Upon information and belief, at all relevant times St. Bridget's held itself out to the public as the owner of St. Bridget's.

218. Upon information and belief, at all relevant times St. Bridget's employed priests and/or others who served Catholic families, including plaintiff R.A. and his family.

219. Upon information and belief, at all relevant times St. Bridget's, its agents, servants, and employees managed, maintained, operated, and controlled St. Bridget's, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Bridget's.

220. Upon information and belief, at all relevant times St. Bridget's was responsible for and did the staffing and hiring at St. Bridget's.

221. Upon information and belief, at all relevant times St. Bridget's was responsible for and did the recruitment and staffing of volunteers at St. Bridget's.

222. Upon information and belief, at all relevant times St. Bridget's materially benefitted from the operation of St. Bridget's, including the services of Father Vogt and the services of those who managed and supervised Father Vogt.

223. Upon information and belief, at all relevant times Father Vogt was a priest of the Diocese.

224. Upon information and belief, at all relevant times Father Vogt was on the staff of, acted as an agent of, and served as an employee of the Diocese.

225. Upon information and belief, at all relevant times Father Vogt was acting in the course and scope of his employment with the Diocese.

226. Upon information and belief, at all relevant times Father Vogt was employed by the Diocese and assigned to St. Bridget's.

227. Upon information and belief, at all relevant times Father Vogt was a priest of St. Bridget's.

228. Upon information and belief, at all relevant times Father Vogt was on the staff of, was an agent of, and served as an employee of St. Bridget's.

229. Upon information and belief, at all relevant times Father Vogt was acting in the course and scope of his employment with St. Bridget's.

230. Upon information and belief, at all relevant times Father Vogt had an office on the premises of St. Bridget's.

231. When plaintiff R.A. was a minor, he and his parents were members of the Diocese and St. Bridget's.

232. At all relevant times, the Diocese and St. Bridget's, their agents, servants, and employees, held Father Vogt out to the public, to R.A., and to his parents, as their agent and employee.

233. At all relevant times, the Diocese and St. Bridget's, their agents, servants, and employees, held Father Vogt out to the public, to R.A., and to his parents, as having been vetted, screened, and approved by those defendants.

234. At all relevant times, R.A. and his parents reasonably relied upon the acts and representations of the Diocese and St. Bridget's, their agents, servants, and employees, and reasonably believed that Father Vogt was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

235. At all relevant times, R.A. and his parents trusted Father Vogt because the Diocese and St. Bridget's held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of R.A.

236. At all relevant times, R.A. and his parents believed that the Diocese and St. Bridget's would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of R.A.

237. When R.A. was a minor, Father Vogt sexually abused him.

238. R.A. was sexually abused by Father Vogt when R.A. was approximately 10 years old.

239. Based on the representations of the Diocese and St. Bridget's that Father Vogt was safe and trustworthy, R.A. and his parents allowed R.A. to be under the supervision of, and in the care, custody, and control of, the Diocese and St. Bridget's, including during the times when R.A. was sexually abused by Father Vogt.

240. Based on the representations of the Diocese and St. Bridget's that Father Vogt was safe and trustworthy, R.A. and his parents allowed R.A. to be under the supervision of, and in the

care, custody, and control of, Father Vogt, including during the times when R.A. was sexually abused by Father Vogt.

241. Neither R.A. nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Bridget's, or Father Vogt if the Diocese or St. Bridget's had disclosed to R.A. or his parents that Father Vogt was not safe and was not trustworthy, and that he in fact posed a danger to R.A. in that Father Vogt was likely to sexually abuse R.A.

242. No parent of ordinary prudence in comparable circumstances would have allowed R.A. to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Bridget's, or Father Vogt if the Diocese or St. Bridget's had disclosed to R.A. or his parents that Father Vogt was not safe and was not trustworthy, and that he in fact posed a danger to R.A. in that Father Vogt was likely to sexually abuse him.

243. In approximately 1955, Father Vogt exploited the trust and authority vested in him by defendants by grooming R.A. to gain his trust and to obtain control over him as part of Father Vogt's plan to sexually molest and abuse R.A. and other children.

244. Father Vogt used his position of trust and authority as a priest of the Diocese and of St. Bridget's to groom R.A. and to sexually abuse him multiple times, including when R.A. was under the supervision of, and in the care, custody, or control of, the Diocese, St. Bridget's, and Father Vogt.

245. At certain times, the sexual abuse of R.A. by Father Vogt occurred at St. Bridget's, including at St. Bridget's school and church, and at the Natatorium Swimming Pool.

246. At certain times, Father Vogt's sexual abuse of R.A. occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and St. Bridget's, including during school hours and when he was serving as an altar boy.

247. Upon information and belief, prior to the times mentioned herein, Father Vogt was a known sexual abuser of children.

248. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Vogt was a known sexual abuser of children.

249. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Vogt's sexual abuse of children would likely result in injury to others, including the sexual abuse of R.A. and other children by Father Vogt.

250. Upon information and belief, the defendants, their agents, servants, and employees, knew or should have known that Father Vogt was sexually abusing R.A. and other children at St. Bridget's and elsewhere.

251. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father Vogt of R.A. was ongoing.

252. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew or should have known that Father Vogt was likely to abuse children, including R.A., because Father Vogt sexually abused numerous other children at St. Bridget's before R.A. was abused.

253. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew or should have known that Father Vogt was likely to abuse children,

including R.A., because the nuns at St. Bridget's, who were employed by the defendants or were serving the defendants, were present for some instances of his sexual abuse of children, including R.A.

254. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew or should have known before and during Father Vogt's sexual abuse of R.A. that priests and other persons serving the Diocese and St. Bridget's had used their positions with those defendants to groom and to sexually abuse children.

255. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew or should have known before and during Father Vogt's sexual abuse of R.A. that such priests and other persons could not be "cured" through treatment or counseling.

256. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, concealed the sexual abuse of children by Father Vogt in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Vogt would continue to molest children.

257. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Vogt would use his position with the defendants to sexually abuse children, including R.A.

258. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, disregarded their knowledge that Father Vogt would use his position with them to sexually abuse children, including R.A.

259. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, acted in concert with each other or with Father Vogt to conceal the danger that Father Vogt posed to children, including R.A., so that Father Vogt could continue serving them despite their knowledge of that danger.

260. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including R.A., and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

261. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, concealed the sexual abuse of children by priests and/or others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

262. By reason of the wrongful acts of the Diocese and St. Bridget's as detailed herein, R.A. sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and R.A. has and/or will become obligated to expend sums of money for treatment.

**VI. STATEMENT OF FACTS AS TO PLAINTIFF JAMES GREEN**

263. Upon information and belief, at all relevant times the Diocese was the owner of St. Leo's and held itself out to the public as the owner of St. Leo's.

264. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Leo's.

265. Upon information and belief, at all relevant times the Diocese employed priests and/or others who served Catholic families at St. Leo's, including plaintiff James Green and his family.

266. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Leo's, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled St. Leo's.

267. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at St. Leo's.

268. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at St. Leo's.

269. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of St. Leo's, including the services of Father Rauber and the services of those who managed and supervised Father Rauber.

270. Upon information and belief, at all relevant times St. Leo's owned a parish and church.

271. Upon information and belief, at all relevant times St. Leo's held itself out to the public as the owner of St. Leo's.



272. Upon information and belief, at all relevant times St. Leo's employed priests and/or others who served Catholic families, including plaintiff James Green and his family.

273. Upon information and belief, at all relevant times St. Leo's, its agents, servants, and employees managed, maintained, operated, and controlled St. Leo's, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Leo's.

274. Upon information and belief, at all relevant times St. Leo's was responsible for and did the staffing and hiring at St. Leo's.

275. Upon information and belief, at all relevant times St. Leo's was responsible for and did the recruitment and staffing of volunteers at St. Leo's.

276. Upon information and belief, at all relevant times St. Leo's materially benefitted from the operation of St. Leo's, including the services of Father Rauber and the services of those who managed and supervised Father Rauber.

277. Upon information and belief, at all relevant times Father Rauber was a priest of the Diocese.

278. Upon information and belief, at all relevant times Father Rauber was on the staff of, acted as an agent of, and served as an employee of the Diocese.

279. Upon information and belief, at all relevant times Father Rauber was acting in the course and scope of his employment with the Diocese.

280. Upon information and belief, at all relevant times Father Rauber was employed by the Diocese and assigned to St. Leo's.

281. Upon information and belief, at all relevant times Father Rauber was a priest of St. Leo's.

282. Upon information and belief, at all relevant times Father Rauber was on the staff of, was an agent of, and served as an employee of St. Leo's.

283. Upon information and belief, at all relevant times Father Rauber was acting in the course and scope of his employment with St. Leo's.

284. Upon information and belief, at all relevant times Father Rauber had an office on the premises of St. Leo's.

285. When plaintiff James Green was a minor, he and his parents were members of the Diocese and St. Leo's.

286. At all relevant times, the Diocese and St. Leo's, their agents, servants, and employees, held Father Rauber out to the public, to James, and to his parents, as their agent and employee.

287. At all relevant times, the Diocese and St. Leo's, their agents, servants, and employees, held Father Rauber out to the public, to James, and to his parents, as having been vetted, screened, and approved by those defendants.

288. At all relevant times, James and his parents reasonably relied upon the acts and representations of the Diocese and St. Leo's, their agents, servants, and employees, and reasonably believed that Father Rauber was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

289. At all relevant times, James and his parents trusted Father Rauber because the Diocese and St. Leo's held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of James.

290. At all relevant times, James and his parents believed that the Diocese and St. Leo's would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of James.

291. When James was a minor, Father Rauber sexually abused him.

292. James was sexually abused by Father Rauber when James was approximately 7 years old.

293. Based on the representations of the Diocese and St. Leo's that Father Rauber was safe and trustworthy, James and his parents allowed James to be under the supervision of, and in the care, custody, and control of, the Diocese and St. Leo's, including during the times when James was sexually abused by Father Rauber.

294. Based on the representations of the Diocese and St. Leo's that Father Rauber was safe and trustworthy, James and his parents allowed James to be under the supervision of, and in the care, custody, and control of, Father Rauber, including during the times when James was sexually abused by Father Rauber.

295. Neither James nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Leo's, or Father Rauber if the Diocese or St. Leo's had disclosed to James or his parents that Father Rauber was not safe and was not trustworthy, and that he in fact posed a danger to James in that Father Rauber was likely to sexually abuse James.

296. No parent of ordinary prudence in comparable circumstances would have allowed James to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Leo's, or Father Rauber if the Diocese or St. Leo's had disclosed to James or his parents that Father Rauber

was not safe and was not trustworthy, and that he in fact posed a danger to James in that Father Rauber was likely to sexually abuse him.

297. In approximately 1960, Father Rauber exploited the trust and authority vested in him by defendants by grooming James to gain his trust and to obtain control over him as part of Father Rauber's plan to sexually molest and abuse James and other children.

298. Father Rauber used his position of trust and authority as a priest of the Diocese and of St. Leo's to groom James and to sexually abuse him, including when James was under the supervision of, and in the care, custody, or control of, the Diocese, St. Leo's, and Father Rauber.

299. The sexual abuse of James by Father Rauber occurred at St. Leo's, in the basement of the church.

300. At certain times, Father Rauber's sexual abuse of James occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and St. Leo's, including during James's first communion.

301. Upon information and belief, prior to the times mentioned herein, Father Rauber was a known sexual abuser of children.

302. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Rauber was a known sexual abuser of children.

303. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Rauber's sexual abuse of children would likely result in injury to others, including the sexual abuse of James and other children by Father Rauber.

304. Upon information and belief, the defendants, their agents, servants, and employees, knew or should have known that Father Rauber was sexually abusing James and other children at St. Leo's and elsewhere.

305. Upon information and belief, the Diocese and St. Leo's, their agents, servants, and employees, knew or should have known before Father Rauber's sexual abuse of James that priests and other persons serving the Diocese and St. Leo's had used their positions with those defendants to groom and to sexually abuse children.

306. Upon information and belief, the Diocese and St. Leo's, their agents, servants, and employees, knew or should have known before Father Rauber's sexual abuse of James that such priests and other persons could not be "cured" through treatment or counseling.

307. Upon information and belief, the Diocese and St. Leo's, their agents, servants, and employees, concealed the sexual abuse of children by Father Rauber in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Rauber would continue to molest children.

308. Upon information and belief, the Diocese and St. Leo's, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Rauber would use his position with the defendants to sexually abuse children, including James.

309. Upon information and belief, the Diocese and St. Leo's, their agents, servants, and employees, disregarded their knowledge that Father Rauber would use his position with them to sexually abuse children, including James.

310. Upon information and belief, the Diocese and St. Leo's, their agents, servants, and employees, acted in concert with each other or with Father Rauber to conceal the danger that Father Rauber posed to children, including James, so that Father Rauber could continue serving them despite their knowledge of that danger.

311. Upon information and belief, the Diocese and St. Leo's, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including James, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

312. Upon information and belief, the Diocese and St. Leo's, their agents, servants, and employees, concealed the sexual abuse of children by priests and/or others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

313. By reason of the wrongful acts of the Diocese and St. Leo's as detailed herein, James sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and James has and/or will become obligated to expend sums of money for treatment.

**VII. STATEMENT OF FACTS AS TO PLAINTIFF M.S.**

314. Upon information and belief, at all relevant times the Diocese was the owner of St. Francis and held itself out to the public as the owner of St. Francis.

315. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Francis.

316. Upon information and belief, at all relevant times the Diocese employed priests and others who served Catholic families at St. Francis, including plaintiff M.S. and his family.

317. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Francis, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled St. Francis.

318. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at St. Francis.

319. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at St. Francis.

320. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of St. Francis, including the services of Father Beatini and the services of those who managed and supervised Father Beatini.

321. Upon information and belief, at all relevant times St. Francis owned a parish and church.

322. Upon information and belief, at all relevant times St. Francis held itself out to the public as the owner of St. Francis.

323. Upon information and belief, at all relevant times St. Francis employed priests, school administrators, teachers, religious, and others who served Catholic families, including plaintiff M.S. and his family.

324. Upon information and belief, at all relevant times St. Francis, its agents, servants, and employees managed, maintained, operated, and controlled St. Francis, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Francis.

325. Upon information and belief, at all relevant times St. Francis was responsible for and did the staffing and hiring at St. Francis.

326. Upon information and belief, at all relevant times St. Francis was responsible for and did the recruitment and staffing of volunteers at St. Francis.

327. Upon information and belief, at all relevant times St. Francis materially benefitted from the operation of St. Francis, including the services of Father Beatini and the services of those who managed and supervised Father Beatini.

328. Upon information and belief, at all relevant times Father Beatini was a priest of the Diocese.

329. Upon information and belief, at all relevant times Father Beatini was on the staff of, acted as an agent of, and served as an employee of the Diocese.

330. Upon information and belief, at all relevant times Father Beatini was acting in the course and scope of his employment with the Diocese.

331. Upon information and belief, at all relevant times Father Beatini was employed by the Diocese and assigned to St. Francis.



332. Upon information and belief, at all relevant times Father Beatini was a priest of St. Francis.

333. Upon information and belief, at all relevant times Father Beatini was on the staff of, was an agent of, and served as an employee of St. Francis.

334. Upon information and belief, at all relevant times Father Beatini was acting in the course and scope of his employment with St. Francis.

335. Upon information and belief, at all relevant times Father Beatini had an office on the premises of St. Francis.

336. When plaintiff M.S. was a minor, he and his parents were members of the Diocese and M.S. attended classes at St. Francis.

337. At all relevant times, the Diocese and St. Francis, their agents, servants, and employees, held Father Beatini out to the public, to M.S., and to his parents, as their agent and employee.

338. At all relevant times, the Diocese and St. Francis, their agents, servants, and employees, held Father Beatini out to the public, to M.S., and to his parents, as having been vetted, screened, and approved by those defendants.

339. At all relevant times, M.S. and his parents reasonably relied upon the acts and representations of the Diocese and St. Francis, their agents, servants, and employees, and reasonably believed that Father Beatini was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

340. At all relevant times, M.S. and his parents trusted Father Beatini because the Diocese and St. Francis held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of M.S.

341. At all relevant times, M.S. and his parents believed that the Diocese and St. Francis would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of M.S.

342. When M.S. was a minor, Father Beatini sexually abused him.

343. M.S. was sexually abused by Father Beatini when M.S. was approximately 9 years old.

344. Based on the representations of the Diocese and St. Francis that Father Beatini was safe and trustworthy, M.S. and his parents allowed M.S. to be under the supervision of, and in the care, custody, and control of, the Diocese and St. Francis, including during the times when M.S. was sexually abused by Father Beatini.

345. Based on the representations of the Diocese and St. Francis that Father Beatini was safe and trustworthy, M.S. and his parents allowed M.S. to be under the supervision of, and in the care, custody, and control of, Father Beatini, including during the times when M.S. was sexually abused by Father Beatini.

346. Neither M.S. nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Francis, or Father Beatini if the Diocese or St. Francis had disclosed to M.S. or his parents that Father Beatini was not safe and was not trustworthy, and that he in fact posed a danger to M.S. in that Father Beatini was likely to sexually abuse M.S.

347. No parent of ordinary prudence in comparable circumstances would have allowed M.S. to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Francis, or Father Beatini if the Diocese or St. Francis had disclosed to M.S. or his parents that Father

Beatini was not safe and was not trustworthy, and that he in fact posed a danger to M.S. in that Father Beatini was likely to sexually abuse him.

348. In approximately 1964, Father Beatini exploited the trust and authority vested in him by defendants by grooming M.S. to gain his trust and to obtain control over him as part of Father Beatini's plan to sexually molest and abuse M.S. and other children.

349. Father Beatini used his position of trust and authority as a priest of the Diocese and of St. Francis to groom M.S. and to sexually abuse him multiple times, including when M.S. was under the supervision of, and in the care, custody, or control of, the Diocese, St. Francis, and Father Beatini.

350. At certain times, the sexual abuse of M.S. by Father Beatini occurred at St. Francis, including in a room used for religion classes.

351. At certain times, Father Beatini's sexual abuse of M.S. occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and St. Francis, including during religion classes taught by Father Beatini.

352. Upon information and belief, prior to the times mentioned herein, Father Beatini was a known sexual abuser of children.

353. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Beatini was a known sexual abuser of children.

354. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Beatini's sexual abuse of children would likely result in injury to others, including the sexual abuse of M.S. and other children by Father Beatini.

355. Upon information and belief, the defendants, their agents, servants, and employees, knew or should have known that Father Beatini was sexually abusing M.S. and other children at St. Francis and elsewhere.

356. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father Beatini of M.S. was ongoing.

357. Upon information and belief, the Diocese and St. Francis, their agents, servants, and employees, knew or should have known that Father Beatini was likely to abuse children, including M.S., because more than one nun was present when M.S. was sexually abused by Father Beatini for the first time.

358. Upon information and belief, the Diocese and St. Francis, their agents, servants, and employees, knew or should have known before and during Father Beatini's sexual abuse of M.S. that priests and other persons serving the Diocese and St. Francis had used their positions with those defendants to groom and to sexually abuse children.

359. Upon information and belief, the Diocese and St. Francis, their agents, servants, and employees, knew or should have known before and during Father Beatini's sexual abuse of M.S. that such priests and other persons could not be "cured" through treatment or counseling.

360. Upon information and belief, the Diocese and St. Francis, their agents, servants, and employees, concealed the sexual abuse of children by Father Beatini in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Beatini would continue to molest children.

361. Upon information and belief, the Diocese and St. Francis, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Beatini would use his position with the defendants to sexually abuse children, including M.S.

362. Upon information and belief, the Diocese and St. Francis, their agents, servants, and employees, disregarded their knowledge that Father Beatini would use his position with them to sexually abuse children, including M.S.

363. Upon information and belief, the Diocese and St. Francis, their agents, servants, and employees, acted in concert with each other or with Father Beatini to conceal the danger that Father Beatini posed to children, including M.S., so that Father Beatini could continue serving them despite their knowledge of that danger.

364. Upon information and belief, the Diocese and St. Francis, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including M.S., and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

365. Upon information and belief, the Diocese and St. Francis, their agents, servants, and employees, concealed the sexual abuse of children by priests, school administrators, teachers, religious, and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

366. By reason of the wrongful acts of the Diocese and St. Francis as detailed herein, M.S. sustained physical and psychological injuries, including but not limited to, severe emotional

and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and M.S. has and/or will become obligated to expend sums of money for treatment.

#### **VIII. STATEMENT OF FACTS AS TO PLAINTIFF F.S.**

367. Upon information and belief, at all relevant times the Diocese was the owner of St. Bridget's and held itself out to the public as the owner of St. Bridget's.

368. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Bridget's.

369. Upon information and belief, at all relevant times the Diocese employed priests, school administrators, teachers, religious, and others who served Catholic families at St. Bridget's, including plaintiff F.S. and his family.

370. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Bridget's, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled St. Bridget's.

371. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at St. Bridget's.

372. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at St. Bridget's.

373. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of St. Bridget's, including the services of Father Vogt and the services of those who managed and supervised Father Vogt.

374. Upon information and belief, at all relevant times St. Bridget's owned a parish, church, and school.

375. Upon information and belief, at all relevant times St. Bridget's held itself out to the public as the owner of St. Bridget's.

376. Upon information and belief, at all relevant times St. Bridget's employed priests, school administrators, teachers, religious, and others who served Catholic families, including plaintiff F.S. and his family.

377. Upon information and belief, at all relevant times St. Bridget's, its agents, servants, and employees managed, maintained, operated, and controlled St. Bridget's, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Bridget's.

378. Upon information and belief, at all relevant times St. Bridget's was responsible for and did the staffing and hiring at St. Bridget's.

379. Upon information and belief, at all relevant times St. Bridget's was responsible for and did the recruitment and staffing of volunteers at St. Bridget's.

380. Upon information and belief, at all relevant times St. Bridget's materially benefitted from the operation of St. Bridget's, including the services of Father Vogt and the services of those who managed and supervised Father Vogt.

381. Upon information and belief, at all relevant times Father Vogt was a priest of the Diocese.

382. Upon information and belief, at all relevant times Father Vogt was on the staff of, acted as an agent of, and served as an employee of the Diocese.

383. Upon information and belief, at all relevant times Father Vogt was acting in the course and scope of his employment with the Diocese.

384. Upon information and belief, at all relevant times Father Vogt was employed by the Diocese and assigned to St. Bridget's.

385. Upon information and belief, at all relevant times Father Vogt was a priest of St. Bridget's.

386. Upon information and belief, at all relevant times Father Vogt was on the staff of, was an agent of, and served as an employee of St. Bridget's.

387. Upon information and belief, at all relevant times Father Vogt was acting in the course and scope of his employment with St. Bridget's.

388. Upon information and belief, at all relevant times Father Vogt had an office on the premises of St. Bridget's.

389. When plaintiff F.S. was a minor, he and his parents were members of the Diocese and St. Bridget's.

390. At all relevant times, the Diocese and St. Bridget's, their agents, servants, and employees, held Father Vogt out to the public, to F.S., and to his parents, as their agent and employee.

391. At all relevant times, the Diocese and St. Bridget's, their agents, servants, and employees, held Father Vogt out to the public, to F.S., and to his parents, as having been vetted, screened, and approved by those defendants.

392. At all relevant times, F.S. and his parents reasonably relied upon the acts and representations of the Diocese and St. Bridget's, their agents, servants, and employees, and



reasonably believed that Father Vogt was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

393. At all relevant times, F.S. and his parents trusted Father Vogt because the Diocese and St. Bridget's held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of F.S.

394. At all relevant times, F.S. and his parents believed that the Diocese and St. Bridget's would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of F.S.

395. When F.S. was a minor, Father Vogt sexually abused him.

396. F.S. was sexually abused by Father Vogt when F.S. was approximately 9 to 11 years old.

397. Based on the representations of the Diocese and St. Bridget's that Father Vogt was safe and trustworthy, F.S. and his parents allowed F.S. to be under the supervision of, and in the care, custody, and control of, the Diocese and St. Bridget's, including during the times when F.S. was sexually abused by Father Vogt.

398. Based on the representations of the Diocese and St. Bridget's that Father Vogt was safe and trustworthy, F.S. and his parents allowed F.S. to be under the supervision of, and in the care, custody, and control of, Father Vogt, including during the times when F.S. was sexually abused by Father Vogt.

399. Neither F.S. nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Bridget's, or Father Vogt if the Diocese or St. Bridget's had disclosed to F.S. or his parents that Father Vogt was not safe and was not

trustworthy, and that he in fact posed a danger to F.S. in that Father Vogt was likely to sexually abuse F.S.

400. No parent of ordinary prudence in comparable circumstances would have allowed F.S. to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Bridget's, or Father Vogt if the Diocese or St. Bridget's had disclosed to F.S. or his parents that Father Vogt was not safe and was not trustworthy, and that he in fact posed a danger to F.S. in that Father Vogt was likely to sexually abuse him.

401. From approximately 1966 through 1968, Father Vogt exploited the trust and authority vested in him by defendants by grooming F.S. to gain his trust and to obtain control over him as part of Father Vogt's plan to sexually molest and abuse F.S. and other children.

402. Father Vogt used his position of trust and authority as a priest of the Diocese and of St. Bridget's to groom F.S. and to sexually abuse him multiple times, including when F.S. was under the supervision of, and in the care, custody, or control of, the Diocese, St. Bridget's, and Father Vogt.

403. At certain times, the sexual abuse of F.S. by Father Vogt occurred at St. Bridget's, including at St. Bridget's parish and on an outing under the guise of teaching F.S. and other boys how to swim.

404. At certain times, Father Vogt's sexual abuse of F.S. occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and St. Bridget's, including when F.S. was a student and parishioner, and during a Catholic Youth Organization event.

405. Upon information and belief, prior to the times mentioned herein, Father Vogt was a known sexual abuser of children.

406. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Vogt was a known sexual abuser of children.

407. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Vogt's sexual abuse of children would likely result in injury to others, including the sexual abuse of F.S. and other children by Father Vogt.

408. Upon information and belief, at certain times between 1966 and 1968, defendants, their agents, servants, and employees knew or should have known that Father Vogt was sexually abusing F.S. and other children at St. Bridget's and elsewhere.

409. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father Vogt of F.S. was ongoing.

410. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew or should have known that Father Vogt was likely to abuse children, including F.S., because Father Vogt had been sexually abusing other children at St. Bridget's for years before F.S. was abused.

411. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew or should have known that Father Vogt was likely to abuse children, including F.S., because of the frequent outings that Father Vogt would plan with young boys from the parish and school, including F.S.

412. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew or should have known before and during Father Vogt's sexual abuse of F.S.

that priests and other persons serving the Diocese and St. Bridget's had used their positions with those defendants to groom and to sexually abuse children.

413. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew or should have known before and during Father Vogt's sexual abuse of F.S. that such priests and other persons could not be "cured" through treatment or counseling.

414. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, concealed the sexual abuse of children by Father Vogt in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Vogt would continue to molest children.

415. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Vogt would use his position with the defendants to sexually abuse children, including F.S.

416. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, disregarded their knowledge that Father Vogt would use his position with them to sexually abuse children, including F.S.

417. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, acted in concert with each other or with Father Vogt to conceal the danger that Father Vogt posed to children, including F.S., so that Father Vogt could continue serving them despite their knowledge of that danger.

418. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe

emotional and psychological distress, as well as personal physical injury, on others, including F.S., and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

419. Upon information and belief, the Diocese and St. Bridget's, their agents, servants, and employees, concealed the sexual abuse of children by priests, school administrators, teachers, religious, and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

420. By reason of the wrongful acts of the Diocese and St. Bridget's as detailed herein, F.S. sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and F.S. has and/or will become obligated to expend sums of money for treatment.

#### **IX. STATEMENT OF FACTS AS TO PLAINTIFF JOHN PEVC**

421. Upon information and belief, at all relevant times the Diocese was the owner of Good Shepherd and held itself out to the public as the owner of Good Shepherd.

422. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Good Shepherd.

423. Upon information and belief, at all relevant times the Diocese employed priests, school administrators, teachers, religious, and others who served Catholic families at Good Shepherd, including plaintiff John Pevc and his family.

424. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Good Shepherd, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled Good Shepherd.

425. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at Good Shepherd.

426. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at Good Shepherd.

427. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of Good Shepherd, including the services of Father Miller and the services of those who managed and supervised Father Miller.

428. Upon information and belief, at all relevant times Good Shepherd owned a parish, church, and school.

429. Upon information and belief, at all relevant times Good Shepherd held itself out to the public as the owner of Good Shepherd.

430. Upon information and belief, at all relevant times Good Shepherd employed priests, school administrators, teachers, religious, and others who served Catholic families, including plaintiff John Pevc and his family.

431. Upon information and belief, at all relevant times Good Shepherd, its agents, servants, and employees managed, maintained, operated, and controlled Good Shepherd, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled Good Shepherd.

432. Upon information and belief, at all relevant times Good Shepherd was responsible for and did the staffing and hiring at Good Shepherd.

433. Upon information and belief, at all relevant times Good Shepherd was responsible for and did the recruitment and staffing of volunteers at Good Shepherd.

434. Upon information and belief, at all relevant times Good Shepherd materially benefitted from the operation of Good Shepherd, including the services of Father Miller and the services of those who managed and supervised Father Miller.

435. Upon information and belief, at all relevant times Father Miller was a priest of the Diocese.

436. Upon information and belief, at all relevant times Father Miller was on the staff of, acted as an agent of, and served as an employee of the Diocese.

437. Upon information and belief, at all relevant times Father Miller was acting in the course and scope of his employment with the Diocese.

438. Upon information and belief, at all relevant times Father Miller was employed by the Diocese and assigned to Good Shepherd.

439. Upon information and belief, at all relevant times Father Miller was a priest of Good Shepherd.

440. Upon information and belief, at all relevant times Father Miller was on the staff of, was an agent of, and served as an employee of Good Shepherd.

441. Upon information and belief, at all relevant times Father Miller was acting in the course and scope of his employment with Good Shepherd.

442. Upon information and belief, at all relevant times Father Miller had an office on the premises of Good Shepherd.

443. When plaintiff John Pevc was a minor, he and his parents were members of the Diocese and Good Shepherd.

444. At all relevant times, the Diocese and Good Shepherd, their agents, servants, and employees, held Father Miller out to the public, to John, and to his parents, as their agent and employee.

445. At all relevant times, the Diocese and Good Shepherd, their agents, servants, and employees, held Father Miller out to the public, to John, and to his parents, as having been vetted, screened, and approved by those defendants.

446. At all relevant times, John and his parents reasonably relied upon the acts and representations of the Diocese and Good Shepherd, their agents, servants, and employees, and reasonably believed that Father Miller was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

447. At all relevant times, John and his parents trusted Father Miller because the Diocese and Good Shepherd held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of John.

448. At all relevant times, John and his parents believed that the Diocese and Good Shepherd would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of John.

449. When John was a minor, Father Miller sexually abused him.

450. John was sexually abused by Father Miller when John was approximately 7 to 9 years old.

451. Based on the representations of the Diocese and Good Shepherd that Father Miller was safe and trustworthy, John and his parents allowed John to be under the supervision of, and in



the care, custody, and control of, the Diocese and Good Shepherd, including during the times when John was sexually abused by Father Miller.

452. Based on the representations of the Diocese and Good Shepherd that Father Miller was safe and trustworthy, John and his parents allowed John to be under the supervision of, and in the care, custody, and control of, Father Miller, including during the times when John was sexually abused by Father Miller.

453. Neither John nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, Good Shepherd, or Father Miller if the Diocese or Good Shepherd had disclosed to John or his parents that Father Miller was not safe and was not trustworthy, and that he in fact posed a danger to John in that Father Miller was likely to sexually abuse John.

454. No parent of ordinary prudence in comparable circumstances would have allowed John to be under the supervision of, or in the care, custody, or control of, the Diocese, Good Shepherd, or Father Miller if the Diocese or Good Shepherd had disclosed to John or his parents that Father Miller was not safe and was not trustworthy, and that he in fact posed a danger to John in that Father Miller was likely to sexually abuse him.

455. From approximately 1967 through 1969, Father Miller exploited the trust and authority vested in him by defendants by grooming John to gain his trust and to obtain control over him as part of Father Miller's plan to sexually molest and abuse John and other children.

456. Father Miller used his position of trust and authority as a priest of the Diocese and of Good Shepherd to groom John and to sexually abuse him multiple times, including when John was under the supervision of, and in the care, custody, or control of, the Diocese, Good Shepherd, and Father Miller.

457. At certain times, Father Miller's sexual abuse of John occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and Good Shepherd, including during trips to the local YMCA with Father Miller during a time when John was a parishioner and a student at Good Shepherd.

458. Upon information and belief, prior to the times mentioned herein, Father Miller was a known sexual abuser of children.

459. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Miller was a known sexual abuser of children.

460. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Miller's sexual abuse of children would likely result in injury to others, including the sexual abuse of John and other children by Father Miller.

461. Upon information or belief, at certain times between 1967 and 1969, defendants, their agents, servants, and employees knew or should have known that Father Miller was sexually abusing John and other children at Good Shepherd and elsewhere.

462. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father Miller of John was ongoing.

463. Upon information and belief, the Diocese and Good Shepherd, their agents, servants, and employees, knew or should have known before and during Father Miller's sexual abuse of John that priests and other persons serving the Diocese and Good Shepherd had used their positions with those defendants to groom and to sexually abuse children.

464. Upon information and belief, the Diocese and Good Shepherd, their agents, servants, and employees, knew or should have known before and during Father Miller's sexual abuse of John that such priests and other persons could not be "cured" through treatment or counseling.

465. Upon information and belief, the Diocese and Good Shepherd, their agents, servants, and employees, concealed the sexual abuse of children by Father Miller in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Miller would continue to molest children.

466. Upon information and belief, the Diocese and Good Shepherd, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Miller would use his position with the defendants to sexually abuse children, including John.

467. Upon information and belief, the Diocese and Good Shepherd, their agents, servants, and employees, disregarded their knowledge that Father Miller would use his position with them to sexually abuse children, including John.

468. Upon information and belief, the Diocese and Good Shepherd, their agents, servants, and employees, acted in concert with each other or with Father Miller to conceal the danger that Father Miller posed to children, including John, so that Father Miller could continue serving them despite their knowledge of that danger.

469. Upon information and belief, the Diocese and Good Shepherd, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others,

including John, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

470. Upon information and belief, the Diocese and Good Shepherd, their agents, servants, and employees, concealed the sexual abuse of children by priests, school administrators, teachers, religious, and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

471. By reason of the wrongful acts of the Diocese and Good Shepherd as detailed herein, John sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and John has and/or will become obligated to expend sums of money for treatment.

#### **X. STATEMENT OF FACTS AS TO PLAINTIFF J.K.**

472. Upon information and belief, at all relevant times the Diocese was the owner of Holy Rosary and held itself out to the public as the owner of Holy Rosary.

473. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Holy Rosary.

474. Upon information and belief, at all relevant times the Diocese employed priests, school administrators, teachers, religious, and others who served Catholic families at Holy Rosary, including plaintiff J.K. and her family.

475. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Holy Rosary, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled Holy Rosary.

476. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at Holy Rosary.

477. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at Holy Rosary.

478. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of Holy Rosary, including the services of Father Meng and the services of those who managed and supervised Father Meng.

479. Upon information and belief, at all relevant times Holy Rosary owned a parish, church, and school.

480. Upon information and belief, at all relevant times Holy Rosary held itself out to the public as the owner of Holy Rosary.

481. Upon information and belief, at all relevant times Holy Rosary employed priests and others who served Catholic families, including plaintiff J.K. and her family.

482. Upon information and belief, at all relevant times Holy Rosary, its agents, servants, and employees managed, maintained, operated, and controlled Holy Rosary, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled Holy Rosary.

483. Upon information and belief, at all relevant times Holy Rosary was responsible for and did the staffing and hiring at Holy Rosary.

484. Upon information and belief, at all relevant times Holy Rosary was responsible for and did the recruitment and staffing of volunteers at Holy Rosary.

485. Upon information and belief, at all relevant times Holy Rosary materially benefitted from the operation of Holy Rosary, including the services of Father Meng and the services of those who managed and supervised Father Meng.

486. Upon information and belief, at all relevant times Father Meng was a priest of the Diocese.

487. Upon information and belief, at all relevant times Father Meng was on the staff of, acted as an agent of, and served as an employee of the Diocese.

488. Upon information and belief, at all relevant times Father Meng was acting in the course and scope of his employment with the Diocese.

489. Upon information and belief, at all relevant times Father Meng was employed by the Diocese and assigned to Holy Rosary.

490. Upon information and belief, at all relevant times Father Meng was a priest of Holy Rosary.

491. Upon information and belief, at all relevant times Father Meng was on the staff of, was an agent of, and served as an employee of Holy Rosary.

492. Upon information and belief, at all relevant times Father Meng was acting in the course and scope of his employment with Holy Rosary.

493. Upon information and belief, at all relevant times Father Meng had an office on the premises of Holy Rosary.

494. When plaintiff J.K. was a minor, she and her parents were members of the Diocese and Holy Rosary.

495. At all relevant times, the Diocese and Holy Rosary, their agents, servants, and employees, held Father Meng out to the public, to J.K., and to her parents, as their agent and employee.

496. At all relevant times, the Diocese and Holy Rosary, their agents, servants, and employees, held Father Meng out to the public, to J.K., and to her parents, as having been vetted, screened, and approved by those defendants.

497. At all relevant times, J.K. and her parents reasonably relied upon the acts and representations of the Diocese and Holy Rosary, their agents, servants, and employees, and reasonably believed that Father Meng was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

498. At all relevant times, J.K. and her parents trusted Father Meng because the Diocese and Holy Rosary held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of J.K.

499. At all relevant times, J.K. and her parents believed that the Diocese and Holy Rosary would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of J.K.

500. When J.K. was a minor, Father Meng sexually abused her.

501. J.K. was sexually abused by Father Meng when she was approximately 4 to 7 years old.

502. Based on the representations of the Diocese and Holy Rosary that Father Meng was safe and trustworthy, J.K. and her parents allowed J.K. to be under the supervision of, and in the care, custody, and control of, the Diocese and Holy Rosary, including during the times when J.K. was sexually abused by Father Meng.

503. Based on the representations of the Diocese and Holy Rosary that Father Meng was safe and trustworthy, J.K. and her parents allowed J.K. to be under the supervision of, and in the care, custody, and control of, Father Meng, including during the times when J.K. was sexually abused by Father Meng.

504. Neither J.K. nor her parents would have allowed her to be under the supervision of, or in the care, custody, or control of, the Diocese, Holy Rosary, or Father Meng if the Diocese or Holy Rosary had disclosed to J.K. or her parents that Father Meng was not safe and was not trustworthy, and that he in fact posed a danger to J.K. in that Father Meng was likely to sexually abuse J.K.

505. No parent of ordinary prudence in comparable circumstances would have allowed J.K. to be under the supervision of, or in the care, custody, or control of, the Diocese, Holy Rosary, or Father Meng if the Diocese or Holy Rosary had disclosed to J.K. or her parents that Father Meng was not safe and was not trustworthy, and that he in fact posed a danger to J.K. in that Father Meng was likely to sexually abuse her.

506. From approximately 1969 through 1972, Father Meng exploited the trust and authority vested in him by defendants by grooming J.K. to gain her trust and to obtain control over her as part of Father Meng's plan to sexually molest and abuse J.K. and other children.

507. Father Meng used his position of trust and authority as a priest of the Diocese and of Holy Rosary to groom J.K. and to sexually abuse her multiple times, including when J.K. was under the supervision of, and in the care, custody, or control of, the Diocese, Holy Rosary, and Father Meng.

508. At certain times, the sexual abuse of J.K. by Father Meng occurred at Holy Rosary, including at the rectory.



509. At certain times, Father Meng's sexual abuse of J.K. occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and Holy Rosary, including during a time when a family member of J.K. cleaned the rectory.

510. Upon information and belief, prior to the times mentioned herein, Father Meng was a known sexual abuser of children.

511. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Meng was a known sexual abuser of children.

512. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Meng's sexual abuse of children would likely result in injury to others, including the sexual abuse of J.K. and other children by Father Meng.

513. Upon information and belief, at certain times between 1969 and 1972, defendants, their agents, servants, and employees knew or should have known that Father Meng was sexually abusing J.K. and other children at Holy Rosary and elsewhere.

514. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father Meng of J.K. was ongoing.

515. Upon information and belief, the Diocese and Holy Rosary, their agents, servants, and employees, knew or should have known before and during Father Meng's sexual abuse of J.K. that priests and other persons serving the Diocese and Holy Rosary had used their positions with those defendants to groom and to sexually abuse children.

516. Upon information and belief, the Diocese and Holy Rosary, their agents, servants, and employees, knew or should have known before and during Father Meng's sexual abuse of J.K. that such priests and other persons could not be "cured" through treatment or counseling.

517. Upon information and belief, the Diocese and Holy Rosary, their agents, servants, and employees, concealed the sexual abuse of children by Father Meng in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Meng would continue to molest children.

518. Upon information and belief, the Diocese and Holy Rosary, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Meng would use his position with the defendants to sexually abuse children, including J.K.

519. Upon information and belief, the Diocese and Holy Rosary, their agents, servants, and employees, disregarded their knowledge that Father Meng would use his position with them to sexually abuse children, including J.K.

520. Upon information and belief, the Diocese and Holy Rosary, their agents, servants, and employees, acted in concert with each other or with Father Meng to conceal the danger that Father Meng posed to children, including J.K., so that Father Meng could continue serving them despite their knowledge of that danger.

521. Upon information and belief, the Diocese and Holy Rosary, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including J.K.,

and she did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

522. Upon information and belief, the Diocese and Holy Rosary, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

523. By reason of the wrongful acts of the Diocese and Holy Rosary as detailed herein, J.K. sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to her nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and J.K. has and/or will become obligated to expend sums of money for treatment.

#### **XI. STATEMENT OF FACTS AS TO PLAINTIFF S.N.**

524. Upon information and belief, at all relevant times the Diocese was the owner of St. Boniface and held itself out to the public as the owner of St. Boniface.

525. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Boniface.

526. Upon information and belief, at all relevant times the Diocese employed priests and others who served Catholic families at St. Boniface, including plaintiff S.N. and his family.

527. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Boniface, and held out to the

public its agents, servants, and employees as those who managed, maintained, operated, and controlled St. Boniface.

528. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at St. Boniface.

529. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at St. Boniface.

530. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of St. Boniface, including the services of Father O'Neill and the services of those who managed and supervised Father O'Neill.

531. Upon information and belief, at all relevant times St. Boniface owned a parish, church, and school.

532. Upon information and belief, at all relevant times St. Boniface held itself out to the public as the owner of St. Boniface.

533. Upon information and belief, at all relevant times St. Boniface employed priests and others who served Catholic families, including plaintiff S.N. and his family.

534. Upon information and belief, at all relevant times St. Boniface, its agents, servants, and employees managed, maintained, operated, and controlled St. Boniface, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Boniface.

535. Upon information and belief, at all relevant times St. Boniface was responsible for and did the staffing and hiring at St. Boniface.

536. Upon information and belief, at all relevant times St. Boniface was responsible for and did the recruitment and staffing of volunteers at St. Boniface.

537. Upon information and belief, at all relevant times St. Boniface materially benefitted from the operation of St. Boniface, including the services of Father O'Neill and the services of those who managed and supervised Father O'Neill.

538. Upon information and belief, at all relevant times Father O'Neill was a priest of the Diocese.

539. Upon information and belief, at all relevant times Father O'Neill was on the staff of, acted as an agent of, and served as an employee of the Diocese.

540. Upon information and belief, at all relevant times Father O'Neill was acting in the course and scope of his employment with the Diocese.

541. Upon information and belief, at all relevant times Father O'Neill was employed by the Diocese and assigned to St. Boniface.

542. Upon information and belief, at all relevant times Father O'Neill was a priest of St. Boniface.

543. Upon information and belief, at all relevant times Father O'Neill was on the staff of, was an agent of, and served as an employee of St. Boniface.

544. Upon information and belief, at all relevant times Father O'Neill was acting in the course and scope of his employment with St. Boniface.

545. Upon information and belief, at all relevant times Father O'Neill had an office on the premises of St. Boniface.

546. When plaintiff S.N. was a minor, he and his parents were members of the Diocese and St. Boniface.

547. At all relevant times, the Diocese and St. Boniface, their agents, servants, and employees, held Father O'Neill out to the public, to S.N., and to his parents, as their agent and employee.

548. At all relevant times, the Diocese and St. Boniface, their agents, servants, and employees, held Father O'Neill out to the public, to S.N., and to his parents, as having been vetted, screened, and approved by those defendants.

549. At all relevant times, S.N. and his parents reasonably relied upon the acts and representations of the Diocese and St. Boniface, their agents, servants, and employees, and reasonably believed that Father O'Neill was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

550. At all relevant times, S.N. and his parents trusted Father O'Neill because the Diocese and St. Boniface held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of S.N.

551. At all relevant times, S.N. and his parents believed that the Diocese and St. Boniface would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of S.N.

552. When S.N. was a minor, Father O'Neill sexually abused him.

553. S.N. was sexually abused by Father O'Neill when S.N. was approximately 12 to 17 years old.

554. Based on the representations of the Diocese and St. Boniface that Father O'Neill was safe and trustworthy, S.N. and his parents allowed S.N. to be under the supervision of, and in the care, custody, and control of, the Diocese and St. Boniface, including during the times when S.N. was sexually abused by Father O'Neill.

555. Based on the representations of the Diocese and St. Boniface that Father O'Neill was safe and trustworthy, S.N. and his parents allowed S.N. to be under the supervision of, and in the care, custody, and control of, Father O'Neill, including during the times when S.N. was sexually abused by Father O'Neill.

556. Neither S.N. nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Boniface, or Father O'Neill if the Diocese or St. Boniface had disclosed to S.N. or his parents that Father O'Neill was not safe and was not trustworthy, and that he in fact posed a danger to S.N. in that Father O'Neill was likely to sexually abuse S.N.

557. No parent of ordinary prudence in comparable circumstances would have allowed S.N. to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Boniface, or Father O'Neill if the Diocese or St. Boniface had disclosed to S.N. or his parents that Father O'Neill was not safe and was not trustworthy, and that he in fact posed a danger to S.N. in that Father O'Neill was likely to sexually abuse him.

558. From approximately 1974 through 1978, Father O'Neill exploited the trust and authority vested in him by defendants by grooming S.N. to gain his trust and to obtain control over him as part of Father O'Neill's plan to sexually molest and abuse S.N. and other children.

559. Father O'Neill used his position of trust and authority as a priest of the Diocese and of St. Boniface to groom S.N. and to sexually abuse him multiple times, including when S.N. was under the supervision of, and in the care, custody, or control of, the Diocese, St. Boniface, and Father O'Neill.

560. At certain times, Father O'Neill's sexual abuse of S.N. occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and St.

Boniface, including during church outings that were organized by Father O'Neil and/or the defendants.

561. Upon information and belief, prior to the times mentioned herein, Father O'Neill was a known sexual abuser of children.

562. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father O'Neill was a known sexual abuser of children.

563. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father O'Neill's sexual abuse of children would likely result in injury to others, including the sexual abuse of S.N. and other children by Father O'Neill.

564. Upon information and belief, at certain times between 1974 and 1978, defendants, their agents, servants, and employees knew or should have known that Father O'Neill was sexually abusing S.N. and other children at St. Boniface and elsewhere.

565. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father O'Neill of S.N. was ongoing.

566. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, knew or should have known that Father O'Neill was likely to abuse children, including S.N., because Father O'Neill had been sexually abusing other children in the Rochester Diocese for many years before S.N. was abused.

567. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, knew or should have known that Father O'Neill was likely to abuse children, including S.N., because Father O'Neill had been sexually abusing other children in the Rochester



Diocese for many years before S.N. was abused and the parents of those children had complained to the Diocese that Father O'Neill had sexually abused their children.

568. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, knew or should have known before and during Father O'Neill's sexual abuse of S.N. that priests and other persons serving the Diocese and St. Boniface had used their positions with those defendants to groom and to sexually abuse children.

569. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, knew or should have known before and during Father O'Neill's sexual abuse of S.N. that such priests and other persons could not be "cured" through treatment or counseling.

570. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, concealed the sexual abuse of children by Father O'Neill in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father O'Neill would continue to molest children.

571. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father O'Neill would use his position with the defendants to sexually abuse children, including S.N.

572. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, disregarded their knowledge that Father O'Neill would use his position with them to sexually abuse children, including S.N.

573. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, acted in concert with each other or with Father O'Neill to conceal the danger that

Father O'Neill posed to children, including S.N., so that Father O'Neill could continue serving them despite their knowledge of that danger.

574. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including S.N., and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

575. Upon information and belief, the Diocese and St. Boniface, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

576. By reason of the wrongful acts of the Diocese and St. Boniface as detailed herein, S.N. sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and S.N. has and/or will become obligated to expend sums of money for treatment.

## **XII. STATEMENT OF FACTS AS TO PLAINTIFF S.B.**

577. Upon information and belief, at all relevant times the Diocese was the owner of Cardinal Mooney and held itself out to the public as the owner of Cardinal Mooney.

578. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Cardinal Mooney.

579. Upon information and belief, at all relevant times the Diocese employed priests, religious brother, school administrator, or teachers, and others who served Catholic families at Cardinal Mooney, including plaintiff S.B. and his family.

580. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Cardinal Mooney, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled Cardinal Mooney.

581. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at Cardinal Mooney.

582. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at Cardinal Mooney.

583. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of Cardinal Mooney, including the services of Brother Walsh and the services of those who managed and supervised Brother Walsh.

584. Upon information and belief, at all relevant times Cardinal Mooney owned a Catholic high school.

585. Upon information and belief, at all relevant times Cardinal Mooney held itself out to the public as the owner of Cardinal Mooney.

586. Upon information and belief, at all relevant times Cardinal Mooney employed priests, religious brother, school administrator, or teachers, and others who served Catholic families, including plaintiff S.B. and his family.

587. Upon information and belief, at all relevant times Cardinal Mooney, its agents, servants, and employees managed, maintained, operated, and controlled Cardinal Mooney, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled Cardinal Mooney.

588. Upon information and belief, at all relevant times Cardinal Mooney was responsible for and did the staffing and hiring at Cardinal Mooney.

589. Upon information and belief, at all relevant times Cardinal Mooney was responsible for and did the recruitment and staffing of volunteers at Cardinal Mooney.

590. Upon information and belief, at all relevant times Cardinal Mooney materially benefitted from the operation of Cardinal Mooney, including the services of Brother Walsh and the services of those who managed and supervised Brother Walsh.

591. Upon information and belief, at all relevant times Brother Walsh was a religious brother, school administrator, or teacher of the Diocese.

592. Upon information and belief, at all relevant times Brother Walsh was on the staff of, acted as an agent of, and served as an employee of the Diocese.

593. Upon information and belief, at all relevant times Brother Walsh was acting in the course and scope of his employment with the Diocese.

594. Upon information and belief, at all relevant times Brother Walsh was employed by the Diocese and assigned to Cardinal Mooney.

595. Upon information and belief, at all relevant times Brother Walsh was a religious brother, school administrator, or teacher of Cardinal Mooney.

596. Upon information and belief, at all relevant times Brother Walsh was on the staff of, was an agent of, and served as an employee of Cardinal Mooney.

597. Upon information and belief, at all relevant times Brother Walsh was acting in the course and scope of his employment with Cardinal Mooney.

598. Upon information and belief, at all relevant times Brother Walsh had an office on the premises of Cardinal Mooney.

599. When plaintiff S.B. was a minor, he and his parents were members of the Diocese and S.B. was a student at Cardinal Mooney.

600. At all relevant times, the Diocese and Cardinal Mooney, their agents, servants, and employees, held Brother Walsh out to the public, to S.B., and to his parents, as their agent and employee.

601. At all relevant times, the Diocese and Cardinal Mooney, their agents, servants, and employees, held Brother Walsh out to the public, to S.B., and to his parents, as having been vetted, screened, and approved by those defendants.

602. At all relevant times, S.B. and his parents reasonably relied upon the acts and representations of the Diocese and Cardinal Mooney, their agents, servants, and employees, and reasonably believed that Brother Walsh was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

603. At all relevant times, S.B. and his parents trusted Brother Walsh because the Diocese and Cardinal Mooney held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of S.B.

604. At all relevant times, S.B. and his parents believed that the Diocese and Cardinal Mooney would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of S.B.

605. When S.B. was a minor, Brother Walsh sexually abused him.

606. S.B. was sexually abused by Brother Walsh when he was approximately 14 to 16 years old.

607. Based on the representations of the Diocese and Cardinal Mooney that Brother Walsh was safe and trustworthy, S.B. and his parents allowed S.B. to be under the supervision of, and in the care, custody, and control of, the Diocese and Cardinal Mooney, including during the times when S.B. was sexually abused by Brother Walsh.

608. Based on the representations of the Diocese and Cardinal Mooney that Brother Walsh was safe and trustworthy, S.B. and his parents allowed S.B. to be under the supervision of, and in the care, custody, and control of, Brother Walsh, including during the times when S.B. was sexually abused by Brother Walsh.

609. Neither S.B. nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, Cardinal Mooney, or Brother Walsh if the Diocese or Cardinal Mooney had disclosed to S.B. or his parents that Brother Walsh was not safe and was not trustworthy, and that he in fact posed a danger to S.B. in that Brother Walsh was likely to sexually abuse S.B.

610. No parent of ordinary prudence in comparable circumstances would have allowed S.B. to be under the supervision of, or in the care, custody, or control of, the Diocese, Cardinal Mooney, or Brother Walsh if the Diocese or Cardinal Mooney had disclosed to S.B. or his parents that Brother Walsh was not safe and was not trustworthy, and that he in fact posed a danger to S.B. in that Brother Walsh was likely to sexually abuse him.

611. From approximately 1983 through 1985, Brother Walsh exploited the trust and authority vested in him by defendants by grooming S.B. to gain his trust and to obtain control over him as part of Brother Walsh's plan to sexually molest and abuse S.B. and other children.

612. Brother Walsh used his position of trust and authority as a religious brother, school administrator, or teacher of the Diocese and of Cardinal Mooney to groom S.B. and to sexually abuse him multiple times, including when S.B. was under the supervision of, and in the care, custody, or control of, the Diocese, Cardinal Mooney, and Brother Walsh.

613. At certain times, the sexual abuse of S.B. by Brother Walsh occurred at Cardinal Mooney, including in Brother Walsh's office at Cardinal Mooney.

614. At certain times, Brother Walsh's sexual abuse of S.B. occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and Cardinal Mooney, including during school hours and school activities.

615. Upon information and belief, prior to the times mentioned herein, Brother Walsh was a known sexual abuser of children.

616. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Brother Walsh was a known sexual abuser of children.

617. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Brother Walsh's sexual abuse of children would likely result in injury to others, including the sexual abuse of S.B. and other children by Brother Walsh.

618. Upon information and belief, at certain times between 1983 and 1985, defendants, their agents, servants, and employees knew or should have known that Brother Walsh was sexually abusing S.B. and other children at Cardinal Mooney and elsewhere.

619. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Brother Walsh of S.B. was ongoing.

620. Upon information and belief, the Diocese and Cardinal Mooney, their agents, servants, and employees, knew or should have known before and during Brother Walsh's sexual abuse of S.B. that priests and other persons serving the Diocese and Cardinal Mooney had used their positions with those defendants to groom and to sexually abuse children.

621. Upon information and belief, the Diocese and Cardinal Mooney, their agents, servants, and employees, knew or should have known before and during Brother Walsh's sexual abuse of S.B. that such priests and other persons could not be "cured" through treatment or counseling.

622. Upon information and belief, the Diocese and Cardinal Mooney, their agents, servants, and employees, concealed the sexual abuse of children by Brother Walsh in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Brother Walsh would continue to molest children.

623. Upon information and belief, the Diocese and Cardinal Mooney, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Brother Walsh would use his position with the defendants to sexually abuse children, including S.B.

624. Upon information and belief, the Diocese and Cardinal Mooney, their agents, servants, and employees, disregarded their knowledge that Brother Walsh would use his position with them to sexually abuse children, including S.B.

625. Upon information and belief, the Diocese and Cardinal Mooney, their agents, servants, and employees, acted in concert with each other or with Brother Walsh to conceal the



danger that Brother Walsh posed to children, including S.B., so that Brother Walsh could continue serving them despite their knowledge of that danger.

626. Upon information and belief, the Diocese and Cardinal Mooney, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including S.B., and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

627. Upon information and belief, the Diocese and Cardinal Mooney, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

628. By reason of the wrongful acts of the Diocese and Cardinal Mooney as detailed herein, S.B. sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and S.B. has and/or will become obligated to expend sums of money for treatment.

### **XIII. STATEMENT OF FACTS AS TO PLAINTIFF J.W.**

629. Upon information and belief, at all relevant times the Diocese was the owner of McQuaid and held itself out to the public as the owner of McQuaid.

630. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled McQuaid.

631. Upon information and belief, at all relevant times the Diocese employed priests and others who served Catholic families at McQuaid, including plaintiff J.W. and his family.

632. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled McQuaid, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled McQuaid.

633. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at McQuaid.

634. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at McQuaid.

635. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of McQuaid, including the services of Father O'Malley and the services of those who managed and supervised Father O'Malley.

636. Upon information and belief, at all relevant times McQuaid owned a school.

637. Upon information and belief, at all relevant times McQuaid held itself out to the public as the owner of McQuaid.

638. Upon information and belief, at all relevant times McQuaid employed priests and others who served Catholic families, including plaintiff J.W. and his family.

639. Upon information and belief, at all relevant times McQuaid, its agents, servants, and employees managed, maintained, operated, and controlled McQuaid, and held out to the public

its agents, servants and employees as those who managed, maintained, operated, and controlled McQuaid.

640. Upon information and belief, at all relevant times McQuaid was responsible for and did the staffing and hiring at McQuaid.

641. Upon information and belief, at all relevant times McQuaid was responsible for and did the recruitment and staffing of volunteers at McQuaid.

642. Upon information and belief, at all relevant times McQuaid materially benefitted from the operation of McQuaid, including the services of Father O'Malley and the services of those who managed and supervised Father O'Malley.

643. Upon information and belief, at all relevant times Father O'Malley was a priest of the Diocese.

644. Upon information and belief, at all relevant times Father O'Malley was on the staff of, acted as an agent of, and served as an employee of the Diocese.

645. Upon information and belief, at all relevant times Father O'Malley was acting in the course and scope of his employment with the Diocese.

646. Upon information and belief, at all relevant times Father O'Malley was employed by the Diocese and assigned to McQuaid.

647. Upon information and belief, at all relevant times Father O'Malley was a priest of McQuaid.

648. Upon information and belief, at all relevant times Father O'Malley was on the staff of, was an agent of, and served as an employee of McQuaid.

649. Upon information and belief, at all relevant times Father O'Malley was acting in the course and scope of his employment with McQuaid.

650. Upon information and belief, at all relevant times Father O'Malley had an office on the premises of McQuaid.

651. When plaintiff J.W. was a minor, he and his parents were members of the Diocese and J.W. was a student of McQuaid.

652. At all relevant times, the Diocese and McQuaid, their agents, servants, and employees, held Father O'Malley out to the public, to J.W., and to his parents, as their agent and employee.

653. At all relevant times, the Diocese and McQuaid, their agents, servants, and employees, held Father O'Malley out to the public, to J.W., and to his parents, as having been vetted, screened, and approved by those defendants.

654. At all relevant times, J.W. and his parents reasonably relied upon the acts and representations of the Diocese and McQuaid, their agents, servants, and employees, and reasonably believed that Father O'Malley was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

655. At all relevant times, J.W. and his parents trusted Father O'Malley because the Diocese and McQuaid held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of J.W.

656. At all relevant times, J.W. and his parents believed that the Diocese and McQuaid would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of J.W.

657. When J.W. was a minor, Father O'Malley sexually abused him.

658. J.W. was sexually abused by Father O'Malley when he was approximately 17 years old.

659. Based on the representations of the Diocese and McQuaid that Father O'Malley was safe and trustworthy, J.W. and his parents allowed J.W. to be under the supervision of, and in the care, custody, and control of, the Diocese and McQuaid, including during the times when J.W. was sexually abused by Father O'Malley.

660. Based on the representations of the Diocese and McQuaid that Father O'Malley was safe and trustworthy, J.W. and his parents allowed J.W. to be under the supervision of, and in the care, custody, and control of, Father O'Malley, including during the times when J.W. was sexually abused by Father O'Malley.

661. Neither J.W. nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, McQuaid, or Father O'Malley if the Diocese or McQuaid had disclosed to J.W. or his parents that Father O'Malley was not safe and was not trustworthy, and that he in fact posed a danger to J.W. in that Father O'Malley was likely to sexually abuse J.W.

662. No parent of ordinary prudence in comparable circumstances would have allowed J.W. to be under the supervision of, or in the care, custody, or control of, the Diocese, McQuaid, or Father O'Malley if the Diocese or McQuaid had disclosed to J.W. or his parents that Father O'Malley was not safe and was not trustworthy, and that he in fact posed a danger to J.W. in that Father O'Malley was likely to sexually abuse him.

663. From approximately 1985 through 1986, Father O'Malley exploited the trust and authority vested in him by defendants by grooming J.W. to gain his trust and to obtain control over him as part of Father O'Malley's plan to sexually molest and abuse J.W. and other children.

664. Father O'Malley used his position of trust and authority as a priest of the Diocese and of McQuaid to groom J.W. and to sexually abuse him multiple times, including when J.W.

was under the supervision of, and in the care, custody, or control of, the Diocese, McQuaid, and Father O'Malley.

665. At certain times, the sexual abuse of J.W. by Father O'Malley occurred at McQuaid, including in a classroom and in the hallway of the high school.

666. At certain times, Father O'Malley's sexual abuse of J.W. occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and McQuaid, including during school hours and during school activities.

667. Upon information and belief, prior to the times mentioned herein, Father O'Malley was a known sexual abuser of children.

668. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father O'Malley was a known sexual abuser of children.

669. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father O'Malley's sexual abuse of children would likely result in injury to others, including the sexual abuse of J.W. and other children by Father O'Malley.

670. Upon information and belief, at certain times between 1985 and 1986, defendants, their agents, servants, and employees knew or should have known that Father O'Malley was sexually abusing J.W. and other children at McQuaid and elsewhere.

671. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father O'Malley of J.W. was ongoing.

672. Upon information and belief, the Diocese and McQuaid, their agents, servants, and employees, knew or should have known before and during Father O'Malley's sexual abuse of J.W.

that priests and other persons serving the Diocese and McQuaid had used their positions with those defendants to groom and to sexually abuse children.

673. Upon information and belief, the Diocese and McQuaid, their agents, servants, and employees, knew or should have known before and during Father O'Malley's sexual abuse of J.W. that such priests and other persons could not be "cured" through treatment or counseling.

674. Upon information and belief, the Diocese and McQuaid, their agents, servants, and employees, concealed the sexual abuse of children by Father O'Malley in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father O'Malley would continue to molest children.

675. Upon information and belief, the Diocese and McQuaid, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father O'Malley would use his position with the defendants to sexually abuse children, including J.W.

676. Upon information and belief, the Diocese and McQuaid, their agents, servants, and employees, disregarded their knowledge that Father O'Malley would use his position with them to sexually abuse children, including J.W.

677. Upon information and belief, the Diocese and McQuaid, their agents, servants, and employees, acted in concert with each other or with Father O'Malley to conceal the danger that Father O'Malley posed to children, including J.W., so that Father O'Malley could continue serving them despite their knowledge of that danger.

678. Upon information and belief, the Diocese and McQuaid, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe

emotional and psychological distress, as well as personal physical injury, on others, including J.W., and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

679. Upon information and belief, the Diocese and McQuaid, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

680. By reason of the wrongful acts of the Diocese and McQuaid as detailed herein, J.W. sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and J.W. has and/or will become obligated to expend sums of money for treatment.

#### **XIV. STATEMENT OF FACTS AS TO PLAINTIFF KEVIN HIGLEY**

681. Upon information and belief, at all relevant times the Diocese was the owner of St. Mary's and held itself out to the public as the owner of St. Mary's.

682. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Mary's.

683. Upon information and belief, at all relevant times the Diocese employed priests and others who served Catholic families at St. Mary's, including plaintiff Kevin Higley and his family.



684. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Mary's, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled St. Mary's.

685. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at St. Mary's.

686. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at St. Mary's.

687. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of St. Mary's, including the services of Father Cloonan and the services of those who managed and supervised Father Cloonan.

688. Upon information and belief, at all relevant times St. Mary's owned a parish and, church.

689. Upon information and belief, at all relevant times St. Mary's held itself out to the public as the owner of St. Mary's.

690. Upon information and belief, at all relevant times St. Mary's employed priests and others who served Catholic families, including plaintiff Kevin Higley and his family.

691. Upon information and belief, at all relevant times St. Mary's, its agents, servants, and employees managed, maintained, operated, and controlled St. Mary's, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Mary's.

692. Upon information and belief, at all relevant times St. Mary's was responsible for and did the staffing and hiring at St. Mary's.

693. Upon information and belief, at all relevant times St. Mary's was responsible for and did the recruitment and staffing of volunteers at St. Mary's.

694. Upon information and belief, at all relevant times St. Mary's materially benefitted from the operation of St. Mary's, including the services of Father Cloonan and the services of those who managed and supervised Father Cloonan.

695. Upon information and belief, at all relevant times Father Cloonan was a priest of the Diocese.

696. Upon information and belief, at all relevant times Father Cloonan was on the staff of, acted as an agent of, and served as an employee of the Diocese.

697. Upon information and belief, at all relevant times Father Cloonan was acting in the course and scope of his employment with the Diocese.

698. Upon information and belief, at all relevant times Father Cloonan was employed by the Diocese and assigned to St. Mary's.

699. Upon information and belief, at all relevant times Father Cloonan was a priest of St. Mary's.

700. Upon information and belief, at all relevant times Father Cloonan was on the staff of, was an agent of, and served as an employee of St. Mary's.

701. Upon information and belief, at all relevant times Father Cloonan was acting in the course and scope of his employment with St. Mary's.

702. Upon information and belief, at all relevant times Father Cloonan had an office on the premises of St. Mary's.

703. When plaintiff Kevin Higley was a minor, he and his parents were members of the Diocese and St. Mary's.

704. At all relevant times, the Diocese and St. Mary's, their agents, servants, and employees, held Father Cloonan out to the public, to Kevin, and to his parents, as their agent and employee.

705. At all relevant times, the Diocese and St. Mary's, their agents, servants, and employees, held Father Cloonan out to the public, to Kevin, and to his parents, as having been vetted, screened, and approved by those defendants.

706. At all relevant times, Kevin and his parents reasonably relied upon the acts and representations of the Diocese and St. Mary's, their agents, servants, and employees, and reasonably believed that Father Cloonan was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

707. At all relevant times, Kevin and his parents trusted Father Cloonan because the Diocese and St. Mary's held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of Kevin.

708. At all relevant times, Kevin and his parents believed that the Diocese and St. Mary's would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of Kevin.

709. When Kevin was a minor, Father Cloonan sexually abused him.

710. Kevin was sexually abused by Father Cloonan when Kevin was about 14 years old.

711. Based on the representations of the Diocese and St. Mary's that Father Cloonan was safe and trustworthy, Kevin and his parents allowed Kevin to be under the supervision of, and in the care, custody, and control of, the Diocese and St. Mary's, including during the time when Kevin was sexually abused by Father Cloonan.

712. Based on the representations of the Diocese and St. Mary's that Father Cloonan was safe and trustworthy, Kevin and his parents allowed Kevin to be under the supervision of, and in the care, custody, and control of, Father Cloonan, including during the time when Kevin was sexually abused by Father Cloonan.

713. Neither Kevin nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Mary's, or Father Cloonan if the Diocese or St. Mary's had disclosed to Kevin or his parents that Father Cloonan was not safe and was not trustworthy, and that he in fact posed a danger to Kevin in that Father Cloonan was likely to sexually abuse Kevin.

714. No parent of ordinary prudence in comparable circumstances would have allowed Kevin to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Mary's, or Father Cloonan if the Diocese or St. Mary's had disclosed to Kevin or his parents that Father Cloonan was not safe and was not trustworthy, and that he in fact posed a danger to Kevin in that Father Cloonan was likely to sexually abuse him.

715. In approximately 1987, Father Cloonan exploited the trust and authority vested in him by defendants by grooming Kevin to gain his trust and to obtain control over him as part of Father Cloonan's plan to sexually molest and abuse Kevin and other children.

716. Father Cloonan used his position of trust and authority as a priest of the Diocese and of St. Mary's to groom Kevin and to sexually abuse him, including when Kevin was under the supervision of, and in the care, custody, or control of, the Diocese, St. Mary's, and Father Cloonan.

717. The sexual abuse of Kevin by Father Cloonan occurred at St. Mary's, including at Father Cloonan's home behind the church where Father Cloonan lived while he was providing services to the Diocese and St. Mary's.

718. Upon information and belief, the Diocese and St. Mary's owned St. Mary's and they allowed Father Cloonan to live there as a benefit of his employment by those defendants.

719. Father Cloonan's sexual abuse of Kevin occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and St. Mary's, including during the time when Kevin was serving as an altar boy.

720. Upon information and belief, prior to the times mentioned herein, Father Cloonan was a known sexual abuser of children.

721. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father Cloonan was a known sexual abuser of children.

722. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father Cloonan's sexual abuse of children would likely result in injury to others, including the sexual abuse of Kevin and other children by Father Cloonan.

723. Upon information and belief, the defendants, their agents, servants, and employees, knew or should have known that Father Cloonan was sexually abusing Kevin and other children at St. Mary's and elsewhere.

724. Upon information and belief, the Diocese and St. Mary's, their agents, servants, and employees, knew or should have known before and during Father Cloonan's sexual abuse of Kevin that priests and other persons serving the Diocese and St. Mary's had used their positions with those defendants to groom and to sexually abuse children.

725. Upon information and belief, the Diocese and St. Mary's, their agents, servants, and employees, knew or should have known before and during Father Cloonan's sexual abuse of Kevin that such priests and other persons could not be "cured" through treatment or counseling.

726. Upon information and belief, the Diocese and St. Mary's, their agents, servants, and employees, concealed the sexual abuse of children by Father Cloonan in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father Cloonan would continue to molest children.

727. Upon information and belief, the Diocese and St. Mary's, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Cloonan would use his position with the defendants to sexually abuse children, including Kevin.

728. Upon information and belief, the Diocese and St. Mary's, their agents, servants, and employees, disregarded their knowledge that Father Cloonan would use his position with them to sexually abuse children, including Kevin.

729. Upon information and belief, the Diocese and St. Mary's, their agents, servants, and employees, acted in concert with each other or with Father Cloonan to conceal the danger that Father Cloonan posed to children, including Kevin, so that Father Cloonan could continue serving them despite their knowledge of that danger.

730. Upon information and belief, the Diocese and St. Mary's, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including

Kevin, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

731. Upon information and belief, the Diocese and St. Mary's, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

732. By reason of the wrongful acts of the Diocese and St. Mary's as detailed herein, Kevin sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Kevin has and/or will become obligated to expend sums of money for treatment.

#### **XV. STATEMENT OF FACTS AS TO PLAINTIFF JAMES LENNOX**

733. Upon information and belief, at all relevant times the Diocese was the owner of Annunciation and held itself out to the public as the owner of Annunciation.

734. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Annunciation.

735. Upon information and belief, at all relevant times the Diocese employed priests and others who served Catholic families and individuals at Annunciation, including plaintiff James Lennox.

736. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled Annunciation, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled Annunciation.

737. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at Annunciation.

738. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at Annunciation.

739. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of Annunciation, including the services of Father O'Neill and the services of those who managed and supervised Father O'Neill.

740. Upon information and belief, at all relevant times Annunciation owned a parish and church.

741. Upon information and belief, at all relevant times Annunciation held itself out to the public as the owner of Annunciation.

742. Upon information and belief, at all relevant times Annunciation employed priests and others who served Catholic families and individuals, including plaintiff James Lennox.

743. Upon information and belief, at all relevant times Annunciation, its agents, servants, and employees managed, maintained, operated, and controlled Annunciation, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled Annunciation.

744. Upon information and belief, at all relevant times Annunciation was responsible for and did the staffing and hiring at Annunciation.



745. Upon information and belief, at all relevant times Annunciation was responsible for and did the recruitment and staffing of volunteers at Annunciation.

746. Upon information and belief, at all relevant times Annunciation materially benefitted from the operation of Annunciation, including the services of Father O'Neill and the services of those who managed and supervised Father O'Neill.

747. Upon information and belief, at all relevant times Father O'Neill was a priest of the Diocese.

748. Upon information and belief, at all relevant times Father O'Neill was on the staff of, acted as an agent of, and served as an employee of the Diocese.

749. Upon information and belief, at all relevant times Father O'Neill was acting in the course and scope of his employment with the Diocese.

750. Upon information and belief, at all relevant times Father O'Neill was employed by the Diocese and assigned to Annunciation.

751. Upon information and belief, at all relevant times Father O'Neill was a priest of Annunciation.

752. Upon information and belief, at all relevant times Father O'Neill was on the staff of, was an agent of, and served as an employee of Annunciation.

753. Upon information and belief, at all relevant times Father O'Neill was acting in the course and scope of his employment with Annunciation.

754. Upon information and belief, at all relevant times Father O'Neill had an office on the premises of Annunciation.

755. When plaintiff James Lennox was a minor, he sought help and services from the Diocese and Annunciation.

756. At all relevant times, the Diocese and Annunciation, their agents, servants, and employees, held Father O'Neill out to the public and to James, as their agent and employee.

757. At all relevant times, the Diocese and Annunciation, their agents, servants, and employees, held Father O'Neill out to the public and to James, as having been vetted, screened, and approved by those defendants.

758. At all relevant times, James reasonably relied upon the acts and representations of the Diocese and Annunciation, their agents, servants, and employees, and reasonably believed that Father O'Neill was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

759. At all relevant times, James trusted Father O'Neill because the Diocese and Annunciation held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of James.

760. At all relevant times, James believed that the Diocese and Annunciation would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of James.

761. When James was a minor, Father O'Neill sexually abused him.

762. James was sexually abused by Father O'Neill when James was approximately 16 years old.

763. Based on the representations of the Diocese and Annunciation that Father O'Neill was safe and trustworthy, James and his parents allowed James to be under the supervision of, and in the care, custody, and control of, the Diocese and Annunciation, including during the times when James was sexually abused by Father O'Neill.

764. Based on the representations of the Diocese and Annunciation that Father O'Neill was safe and trustworthy, James and his parents allowed James to be under the supervision of, and in the care, custody, and control of, Father O'Neill, including during the times when James was sexually abused by Father O'Neill.

765. Neither James nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, Annunciation, or Father O'Neill if the Diocese or Annunciation had disclosed to James or his parents that Father O'Neill was not safe and was not trustworthy, and that he in fact posed a danger to James in that Father O'Neill was likely to sexually abuse James.

766. No parent of ordinary prudence in comparable circumstances would have allowed James to be under the supervision of, or in the care, custody, or control of, the Diocese, Annunciation, or Father O'Neill if the Diocese or Annunciation had disclosed to James or his parents that Father O'Neill was not safe and was not trustworthy, and that he in fact posed a danger to James in that Father O'Neill was likely to sexually abuse him.

767. From approximately 1988 through 1989, Father O'Neill exploited the trust and authority vested in him by defendants by grooming James to gain his trust and to obtain control over him as part of Father O'Neill's plan to sexually molest and abuse James and other children.

768. Father O'Neill used his position of trust and authority as a priest of the Diocese and of Annunciation to groom James and to sexually abuse him multiple times, including when James was under the supervision of, and in the care, custody, or control of, the Diocese, Annunciation, and Father O'Neill.

769. At certain times, the sexual abuse of James by Father O'Neill occurred at Annunciation, including in the rectory.

770. At certain times, Father O'Neill's sexual abuse of James occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and Annunciation, including during Alcoholics Anonymous meetings that were held and sponsored by the Diocese and the Church of the Annunciation.

771. Upon information and belief, prior to the times mentioned herein, Father O'Neill was a known sexual abuser of children.

772. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father O'Neill was a known sexual abuser of children.

773. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father O'Neill's sexual abuse of children would likely result in injury to others, including the sexual abuse of James and other children by Father O'Neill.

774. Upon information and belief, at certain times between 1988 and 1989, defendants, their agents, servants, and employees knew or should have known that Father O'Neill was sexually abusing James and other children at Annunciation and elsewhere.

775. Upon information and belief, defendants, their agents, servants, and employees knew or should have known that the sexual abuse by Father O'Neill of James was ongoing.

776. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, knew or should have known that Father O'Neill was likely to abuse children, including James, because Father O'Neill had been sexually abusing other children in the Rochester Diocese for many years before James was sexually abused.

777. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, knew or should have known that Father O'Neill was likely to abuse children, including James, because Father O'Neill had been sexually abusing other children in the Rochester Diocese for many years before James was abused and parents of those children had complained to the Diocese about Father O'Neill sexually abusing their children.

778. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, knew or should have known before and during Father O'Neill's sexual abuse of James that priests and other persons serving the Diocese and Annunciation had used their positions with those defendants to groom and to sexually abuse children.

779. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, knew or should have known before and during Father O'Neill's sexual abuse of James that such priests and other persons could not be "cured" through treatment or counseling.

780. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, concealed the sexual abuse of children by Father O'Neill in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father O'Neill would continue to molest children.

781. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father O'Neill would use his position with the defendants to sexually abuse children, including James.

782. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, disregarded their knowledge that Father O'Neill would use his position with them to sexually abuse children, including James.

783. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, acted in concert with each other or with Father O'Neill to conceal the danger that Father O'Neill posed to children, including James, so that Father O'Neill could continue serving them despite their knowledge of that danger.

784. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including James, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

785. Upon information and belief, the Diocese and Annunciation, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

786. By reason of the wrongful acts of the Diocese and Annunciation as detailed herein, James sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these

injuries are of a permanent and lasting nature, and James has and/or will become obligated to expend sums of money for treatment.

#### **XVI. STATEMENT OF FACTS AS TO PLAINTIFF JAKE GIOVATI**

787. Upon information and belief, at all relevant times the Diocese was the owner of St. Christopher's and held itself out to the public as the owner of St. Christopher's.

788. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Christopher's.

789. Upon information and belief, at all relevant times the Diocese employed priests and others who served Catholic families at St. Christopher's, including plaintiff Jake Giovati and his family.

790. Upon information and belief, at all relevant times the Diocese, its agents, servants, and employees managed, maintained, operated, and controlled St. Christopher's, and held out to the public its agents, servants, and employees as those who managed, maintained, operated, and controlled St. Christopher's.

791. Upon information and belief, at all relevant times the Diocese was responsible for the hiring and staffing, and did the hiring and staffing, at St. Christopher's.

792. Upon information and belief, at all relevant times the Diocese was responsible for and did the recruitment and staffing of volunteers at St. Christopher's.

793. Upon information and belief, at all relevant times the Diocese materially benefited from the operation of St. Christopher's, including the services of Father O'Neill and the services of those who managed and supervised Father O'Neill.

794. Upon information and belief, at all relevant times St. Christopher's owned a parish and church.

795. Upon information and belief, at all relevant times St. Christopher's held itself out to the public as the owner of St. Christopher's.

796. Upon information and belief, at all relevant times St. Christopher's employed priests and others who served Catholic families, including plaintiff Jake Giovati and his family.

797. Upon information and belief, at all relevant times St. Christopher's, its agents, servants, and employees managed, maintained, operated, and controlled St. Christopher's, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Christopher's.

798. Upon information and belief, at all relevant times St. Christopher's was responsible for and did the staffing and hiring at St. Christopher's.

799. Upon information and belief, at all relevant times St. Christopher's was responsible for and did the recruitment and staffing of volunteers at St. Christopher's.

800. Upon information and belief, at all relevant times St. Christopher's materially benefitted from the operation of St. Christopher's, including the services of Father O'Neill and the services of those who managed and supervised Father O'Neill.

801. Upon information and belief, at all relevant times Father O'Neill was a priest of the Diocese.

802. Upon information and belief, at all relevant times Father O'Neill was on the staff of, acted as an agent of, and served as an employee of the Diocese.

803. Upon information and belief, at all relevant times Father O'Neill was acting in the course and scope of his employment with the Diocese.

804. Upon information and belief, at all relevant times Father O'Neill was employed by the Diocese and assigned to St. Christopher's.



805. Upon information and belief, at all relevant times Father O'Neill was a priest of St. Christopher's.

806. Upon information and belief, at all relevant times Father O'Neill was on the staff of, was an agent of, and served as an employee of St. Christopher's.

807. Upon information and belief, at all relevant times Father O'Neill was acting in the course and scope of his employment with St. Christopher's.

808. Upon information and belief, at all relevant times Father O'Neill had an office on the premises of St. Christopher's.

809. When plaintiff Jake Giovati was a minor, he and his parents were members of the Diocese and St. Christopher's.

810. At all relevant times, the Diocese and St. Christopher's, their agents, servants, and employees, held Father O'Neill out to the public, to Jake, and to his parents, as their agent and employee.

811. At all relevant times, the Diocese and St. Christopher's, their agents, servants, and employees, held Father O'Neill out to the public, to Jake, and to his parents, as having been vetted, screened, and approved by those defendants.

812. At all relevant times, Jake and his parents reasonably relied upon the acts and representations of the Diocese and St. Christopher's, their agents, servants, and employees, and reasonably believed that Father O'Neill was an agent or employee of those defendants who was vetted, screened, and approved by those defendants.

813. At all relevant times, Jake and his parents trusted Father O'Neill because the Diocese and St. Christopher's held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of Jake.

814. At all relevant times, Jake and his parents believed that the Diocese and St. Christopher's would exercise such care as would a parent of ordinary prudence in comparable circumstances when those defendants assumed supervision, care, custody, and control of Jake.

815. When Jake was a minor, Father O'Neill sexually abused him.

816. Jake was sexually abused by Father O'Neill when Jake was approximately 10 years old.

817. Based on the representations of the Diocese and St. Christopher's that Father O'Neill was safe and trustworthy, Jake and his parents allowed Jake to be under the supervision of, and in the care, custody, and control of, the Diocese and St. Christopher's, including during the time when Jake was sexually abused by Father O'Neill.

818. Based on the representations of the Diocese and St. Christopher's that Father O'Neill was safe and trustworthy, Jake and his parents allowed Jake to be under the supervision of, and in the care, custody, and control of, Father O'Neill, including during the time when Jake was sexually abused by Father O'Neill.

819. Neither Jake nor his parents would have allowed him to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Christopher's, or Father O'Neill if the Diocese or St. Christopher's had disclosed to Jake or his parents that Father O'Neill was not safe and was not trustworthy, and that he in fact posed a danger to Jake in that Father O'Neill was likely to sexually abuse Jake.

820. No parent of ordinary prudence in comparable circumstances would have allowed Jake to be under the supervision of, or in the care, custody, or control of, the Diocese, St. Christopher's, or Father O'Neill if the Diocese or St. Christopher's had disclosed to Jake or his

parents that Father O'Neill was not safe and was not trustworthy, and that he in fact posed a danger to Jake in that Father O'Neill was likely to sexually abuse him.

821. In approximately 1999, Father O'Neill exploited the trust and authority vested in him by defendants by grooming Jake to gain his trust and to obtain control over him as part of Father O'Neill's plan to sexually molest and abuse Jake and other children.

822. Father O'Neill used his position of trust and authority as a priest of the Diocese and of St. Christopher's to groom Jake and to sexually abuse him, including when Jake was under the supervision of, and in the care, custody, or control of, the Diocese, St. Christopher's, and Father O'Neill.

823. The sexual abuse of Jake by Father O'Neill occurred at St. Christopher's in an area behind where Mass was held.

824. At certain times, Father O'Neill's sexual abuse of Jake occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and St. Christopher's, including during a time when he was learning to say his prayers and Father O'Neill asked Jake to confess his "sins."

825. Upon information and belief, prior to the times mentioned herein, Father O'Neill was a known sexual abuser of children.

826. Upon information and belief, at all relevant times, defendants, their agents, servants, and employees, knew or should have known that Father O'Neill was a known sexual abuser of children.

827. Upon information and belief, at all relevant times it was reasonably foreseeable to defendants, their agents, servants, and employees that Father O'Neill's sexual abuse of children

would likely result in injury to others, including the sexual abuse of Jake and other children by Father O'Neill.

828. Upon information and belief, the defendants, their agents, servants, and employees, knew or should have known that Father O'Neill was sexually abusing Jake and other children at St. Christopher's and elsewhere.

829. Upon information and belief, the Diocese and St. Christopher's, their agents, servants, and employees, knew or should have known that Father O'Neill was likely to abuse children, including Jake, because Father O'Neill had been sexually abusing other children in the Rochester Diocese for many years before Plaintiff was abused and parents of these children had complained about Father O'Neill to the Diocese as early as the 1970s.

830. Upon information and belief, the Diocese and St. Christopher's, their agents, servants, and employees, knew or should have known before Father O'Neill's sexual abuse of Jake that priests and other persons serving the Diocese and St. Christopher's had used their positions with those defendants to groom and to sexually abuse children.

831. Upon information and belief, the Diocese and St. Christopher's, their agents, servants, and employees, knew or should have known before Father O'Neill's sexual abuse of Jake that such priests and other persons could not be "cured" through treatment or counseling.

832. Upon information and belief, the Diocese and St. Christopher's, their agents, servants, and employees, concealed the sexual abuse of children by Father O'Neill in order to conceal their own bad acts in failing to protect children from him, to protect their reputation, and to prevent victims of such sexual abuse by him from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that Father O'Neill would continue to molest children.

833. Upon information and belief, the Diocese and St. Christopher's, their agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father O'Neill would use his position with the defendants to sexually abuse children, including Jake.

834. Upon information and belief, the Diocese and St. Christopher's, their agents, servants, and employees, disregarded their knowledge that Father O'Neill would use his position with them to sexually abuse children, including Jake.

835. Upon information and belief, the Diocese and St. Christopher's, their agents, servants, and employees, acted in concert with each other or with Father O'Neill to conceal the danger that Father O'Neill posed to children, including Jake, so that Father O'Neill could continue serving them despite their knowledge of that danger.

836. Upon information and belief, the Diocese and St. Christopher's, their agents, servants, and employees, knew that their negligent, reckless, and outrageous conduct would inflict severe emotional and psychological distress, as well as personal physical injury, on others, including Jake, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of their wrongful conduct.

837. Upon information and belief, the Diocese and St. Christopher's, their agents, servants, and employees, concealed the sexual abuse of children by priests and others in order to conceal their own bad acts in failing to protect children from being abused, to protect their reputation, and to prevent victims of such sexual abuse from coming forward during the extremely limited statute of limitations prior to the enactment of the CVA, despite knowing that those priests and other persons would continue to molest children.

838. By reason of the wrongful acts of the Diocese and St. Christopher's as detailed herein, Jake sustained physical and psychological injuries, including but not limited to, severe

emotional and psychological distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil and loss of faith, a severe shock to his nervous system, physical pain and mental anguish, and emotional and psychological damage, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Jake has and/or will become obligated to expend sums of money for treatment.

**XVII. CAUSES OF ACTION AS TO PLAINTIFF R.A.**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

839. Plaintiff R.A. repeats and re-alleges all of his allegations above and below.

840. The Diocese and St. Bridget's had a duty to take reasonable steps to protect plaintiff R.A., a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

841. The Diocese and St. Bridget's also had a duty to take reasonable steps to prevent Father Vogt from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including R.A.

842. The Diocese and St. Bridget's were supervising R.A., and had care, custody, and control of R.A., when he served as an altar boy, attended St. Bridget's as a student, and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

843. These circumstances created a special relationship between the Diocese and R.A., and between St. Bridget's and R.A., which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

844. The Diocese and St. Bridget's breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Vogt from harming R.A., including sexually abusing him.

845. In breaching their duties, including hiring, retaining, and failing to supervise Father Vogt, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn R.A., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for R.A. and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Bridget's created a risk that R.A. would be sexually abused by Father Vogt. The Diocese and St. Bridget's through their actions and inactions created an environment that placed R.A. in danger of unreasonable risks of harm under the circumstances.

846. In breaching their duties, including hiring, retaining, and failing to supervise Father Vogt, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn R.A., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for R.A. and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Bridget's acted willfully and with conscious disregard for the need to protect R.A. The Diocese and St. Bridget's through their actions and inactions created an environment that placed R.A. in danger of unreasonable risks of harm under the circumstances.

847. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of R.A.

848. As a direct and proximate result of the acts and omissions of the Diocese and St. Bridget's, Father Vogt groomed and sexually abused R.A., which has caused R.A. to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

849. Plaintiff R.A. repeats and re-alleges all of his allegations above and below.

850. The Diocese and St. Bridget's engaged in reckless, extreme, and outrageous conduct by providing Father Vogt with access to children, including plaintiff R.A., despite knowing that he would likely use his position to groom and to sexually abuse them, including R.A. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

851. As a result of this reckless, extreme, and outrageous conduct, Father Vogt gained access to R.A. and sexually abused him.

852. The Diocese and St. Bridget's knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and R.A. did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**XVIII. CAUSES OF ACTION AS TO PLAINTIFF JAMES GREEN**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

853. Plaintiff James Green repeats and re-alleges all of his allegations above and below.

854. The Diocese and St. Leo's had a duty to take reasonable steps to protect plaintiff James Green, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.



855. The Diocese and St. Leo's also had a duty to take reasonable steps to prevent Father Rauber from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including James.

856. The Diocese and St. Leo's were supervising James, and had care, custody, and control of James, when he was participating in his first communion and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

857. These circumstances created a special relationship between the Diocese and James, and between St. Leo's and James, which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

858. The Diocese and St. Leo's breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Rauber from harming James, including sexually abusing him.

859. In breaching their duties, including hiring, retaining, and failing to supervise Father Rauber, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn James, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for James and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Leo's created a risk that James would be sexually abused by Father Rauber. The Diocese and St. Leo's through their actions and inactions created an environment that placed James in danger of unreasonable risks of harm under the circumstances.

860. In breaching their duties, including hiring, retaining, and failing to supervise Father Rauber, giving him access to children, entrusting their tasks, premises, and instrumentalities to

him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn James, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for James and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Leo's acted willfully and with conscious disregard for the need to protect James. The Diocese and St. Leo's through their actions and inactions created an environment that placed James in danger of unreasonable risks of harm under the circumstances.

861. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of James.

862. As a direct and proximate result of the acts and omissions of the Diocese and St. Leo's, Father Rauber groomed and sexually abused James, which has caused James to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

863. Plaintiff James Green repeats and re-alleges all of his allegations above and below.

864. The Diocese and St. Leo's engaged in reckless, extreme, and outrageous conduct by providing Father Rauber with access to children, including plaintiff James Green, despite knowing that he would likely use his position to groom and to sexually abuse them, including James. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

865. As a result of this reckless, extreme, and outrageous conduct, Father Rauber gained access to James and sexually abused him.

866. The Diocese and St. Leo's knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and James did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**XIX. CAUSES OF ACTION AS TO PLAINTIFF M.S.**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

867. Plaintiff M.S. repeats and re-alleges all of his allegations above and below.

868. The Diocese and St. Francis had a duty to take reasonable steps to protect plaintiff M.S., a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

869. The Diocese and St. Francis also had a duty to take reasonable steps to prevent Father Beatini from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including M.S.

870. The Diocese and St. Francis were supervising M.S., and had care, custody, and control of M.S., when he attended religion classes at St. Francis, and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

871. These circumstances created a special relationship between the Diocese and M.S., and between St. Francis and M.S., which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

872. The Diocese and St. Francis breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Beatini from harming M.S., including sexually abusing him.

873. In breaching their duties, including hiring, retaining, and failing to supervise Father Beatini, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn M.S., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for M.S. and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Francis created a risk that M.S. would be sexually abused by Father Beatini. The Diocese and St. Francis through their actions and inactions created an environment that placed M.S. in danger of unreasonable risks of harm under the circumstances.

874. In breaching their duties, including hiring, retaining, and failing to supervise Father Beatini, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn M.S., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for M.S. and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Francis acted willfully and with conscious disregard for the need to protect M.S. The Diocese and St. Francis through their actions and inactions created an environment that placed M.S. in danger of unreasonable risks of harm under the circumstances.

875. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of M.S.

876. As a direct and proximate result of the acts and omissions of the Diocese and St. Francis, Father Beatini groomed and sexually abused M.S., which has caused M.S. to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

877. Plaintiff M.S. repeats and re-alleges all of his allegations above and below.

878. The Diocese and St. Francis engaged in reckless, extreme, and outrageous conduct by providing Father Beatini with access to children, including plaintiff M.S., despite knowing that he would likely use his position to groom and to sexually abuse them, including M.S. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

879. As a result of this reckless, extreme, and outrageous conduct, Father Beatini gained access to M.S. and sexually abused him.

880. The Diocese and St. Francis knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and M.S. did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**XX. CAUSES OF ACTION AS TO PLAINTIFF F.S.**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

881. Plaintiff F.S. repeats and re-alleges all of his allegations above and below.

882. The Diocese and St. Bridget's had a duty to take reasonable steps to protect plaintiff F.S., a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

883. The Diocese and St. Bridget's also had a duty to take reasonable steps to prevent Father Vogt from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including F.S.

884. The Diocese and St. Bridget's were supervising F.S., and had care, custody, and control of F.S., when he attended St. Bridget's as a student, and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

885. These circumstances created a special relationship between the Diocese and F.S., and between St. Bridget's and F.S., which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

886. The Diocese and St. Bridget's breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Vogt from harming F.S., including sexually abusing him.

887. In breaching their duties, including hiring, retaining, and failing to supervise Father Vogt, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn F.S., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for F.S. and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Bridget's created a risk that F.S. would be sexually abused by Father Vogt. The Diocese and St. Bridget's through their actions and inactions created an environment that placed F.S. in danger of unreasonable risks of harm under the circumstances.

888. In breaching their duties, including hiring, retaining, and failing to supervise Father Vogt, giving him access to children, entrusting their tasks, premises, and instrumentalities to him,

failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn F.S., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for F.S. and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Bridget's acted willfully and with conscious disregard for the need to protect F.S. The Diocese and St. Bridget's through their actions and inactions created an environment that placed F.S. in danger of unreasonable risks of harm under the circumstances.

889. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of F.S.

890. As a direct and proximate result of the acts and omissions of the Diocese and St. Bridget's, Father Vogt groomed and sexually abused F.S., which has caused F.S. to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

891. Plaintiff F.S. repeats and re-alleges all of his allegations above and below.

892. The Diocese and St. Bridget's engaged in reckless, extreme, and outrageous conduct by providing Father Vogt with access to children, including plaintiff F.S., despite knowing that he would likely use his position to groom and to sexually abuse them, including F.S. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

893. As a result of this reckless, extreme, and outrageous conduct, Father Vogt gained access to F.S. and sexually abused him.

894. The Diocese and St. Bridget's knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and F.S. did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

## **XXI. CAUSES OF ACTION AS TO PLAINTIFF JOHN PEVC**

### **A. FIRST CAUSE OF ACTION – NEGLIGENCE**

895. Plaintiff John Pevc repeats and re-alleges all of his allegations above and below.

896. The Diocese and Good Shepherd had a duty to take reasonable steps to protect plaintiff John Pevc, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

897. The Diocese and Good Shepherd also had a duty to take reasonable steps to prevent Father Miller from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including John.

898. The Diocese and Good Shepherd were supervising John, and had care, custody, and control of John, when he was a parishioner and a student, and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

899. These circumstances created a special relationship between the Diocese and John, and between Good Shepherd and John, which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

900. The Diocese and Good Shepherd breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Miller from harming John, including sexually abusing him.



901. In breaching their duties, including hiring, retaining, and failing to supervise Father Miller, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn John, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for John and other children who were under their supervision and in their care, custody, and control, the Diocese and Good Shepherd created a risk that John would be sexually abused by Father Miller. The Diocese and Good Shepherd through their actions and inactions created an environment that placed John in danger of unreasonable risks of harm under the circumstances.

902. In breaching their duties, including hiring, retaining, and failing to supervise Father Miller, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn John, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for John and other children who were under their supervision and in their care, custody, and control, the Diocese and Good Shepherd acted willfully and with conscious disregard for the need to protect John. The Diocese and Good Shepherd through their actions and inactions created an environment that placed John in danger of unreasonable risks of harm under the circumstances.

903. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of John.

904. As a direct and proximate result of the acts and omissions of the Diocese and Good Shepherd, Father Miller groomed and sexually abused John, which has caused John to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

905. Plaintiff John Pevc repeats and re-alleges all of his allegations above and below.

906. The Diocese and Good Shepherd engaged in reckless, extreme, and outrageous conduct by providing Father Miller with access to children, including plaintiff John Pevc, despite knowing that he would likely use his position to groom and to sexually abuse them, including John. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

907. As a result of this reckless, extreme, and outrageous conduct, Father Miller gained access to John and sexually abused him.

908. The Diocese and Good Shepherd knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and John did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**XXII. CAUSES OF ACTION AS TO PLAINTIFF J.K.**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

909. Plaintiff J.K. repeats and re-alleges all of her allegations above and below.

910. The Diocese and Holy Rosary had a duty to take reasonable steps to protect plaintiff J.K., a child, from foreseeable harm when she was under their supervision and in their care, custody, and control.

911. The Diocese and Holy Rosary also had a duty to take reasonable steps to prevent Father Meng from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including J.K.

912. The Diocese and Holy Rosary were supervising J.K., and had care, custody, and control of J.K., when she was a student at Holy Rosary and at other times, during which time those defendants had a duty to take reasonable steps to protect her.

913. These circumstances created a special relationship between the Diocese and J.K., and between Holy Rosary and J.K., which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

914. The Diocese and Holy Rosary breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Meng from harming J.K., including sexually abusing her.

915. In breaching their duties, including hiring, retaining, and failing to supervise Father Meng, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn J.K., her parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for J.K. and other children who were under their supervision and in their care, custody, and control, the Diocese and Holy Rosary created a risk that J.K. would be sexually abused by Father Meng. The Diocese and Holy Rosary through their actions and inactions created an environment that placed J.K. in danger of unreasonable risks of harm under the circumstances.

916. In breaching their duties, including hiring, retaining, and failing to supervise Father Meng, giving him access to children, entrusting their tasks, premises, and instrumentalities to him,

failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn J.K., her parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for J.K. and other children who were under their supervision and in their care, custody, and control, the Diocese and Holy Rosary acted willfully and with conscious disregard for the need to protect J.K. The Diocese and Holy Rosary through their actions and inactions created an environment that placed J.K. in danger of unreasonable risks of harm under the circumstances.

917. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of J.K.

918. As a direct and proximate result of the acts and omissions of the Diocese and Holy Rosary, Father Meng groomed and sexually abused J.K., which has caused J.K. to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

919. Plaintiff J.K. repeats and re-alleges all of her allegations above and below.

920. The Diocese and Holy Rosary engaged in reckless, extreme, and outrageous conduct by providing Father Meng with access to children, including plaintiff J.K., despite knowing that he would likely use his position to groom and to sexually abuse them, including J.K. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

921. As a result of this reckless, extreme, and outrageous conduct, Father Meng gained access to J.K. and sexually abused her.

922. The Diocese and Holy Rosary knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and J.K. did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

### **XXIII. CAUSES OF ACTION AS TO PLAINTIFF S.N.**

#### **A. FIRST CAUSE OF ACTION – NEGLIGENCE**

923. Plaintiff S.N. repeats and re-alleges all of his allegations above and below.

924. The Diocese and St. Boniface had a duty to take reasonable steps to protect plaintiff S.N., a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

925. The Diocese and St. Boniface also had a duty to take reasonable steps to prevent Father O'Neill from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including S.N.

926. The Diocese and St. Boniface were supervising S.N., and had care, custody, and control of S.N., when he served as an altar boy and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

927. These circumstances created a special relationship between the Diocese and S.N., and between St. Boniface and S.N., which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

928. The Diocese and St. Boniface breached each of the foregoing duties by failing to exercise reasonable care to prevent Father O'Neill from harming S.N., including sexually abusing him.

929. In breaching their duties, including hiring, retaining, and failing to supervise Father O'Neill, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn S.N., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for S.N. and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Boniface created a risk that S.N. would be sexually abused by Father O'Neill. The Diocese and St. Boniface through their actions and inactions created an environment that placed S.N. in danger of unreasonable risks of harm under the circumstances.

930. In breaching their duties, including hiring, retaining, and failing to supervise Father O'Neill, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn S.N., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for S.N. and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Boniface acted willfully and with conscious disregard for the need to protect S.N. The Diocese and St. Boniface through their actions and inactions created an environment that placed S.N. in danger of unreasonable risks of harm under the circumstances.

931. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of S.N.

932. As a direct and proximate result of the acts and omissions of the Diocese and St. Boniface, Father O'Neill groomed and sexually abused S.N., which has caused S.N. to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

933. Plaintiff S.N. repeats and re-alleges all of his allegations above and below.

934. The Diocese and St. Boniface engaged in reckless, extreme, and outrageous conduct by providing Father O'Neill with access to children, including plaintiff S.N., despite knowing that he would likely use his position to groom and to sexually abuse them, including S.N. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

935. As a result of this reckless, extreme, and outrageous conduct, Father O'Neill gained access to S.N. and sexually abused him.

936. The Diocese and St. Boniface knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and S.N. did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**XXIV. CAUSES OF ACTION AS TO PLAINTIFF S.B.**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

937. Plaintiff S.B. repeats and re-alleges all of his allegations above and below.

938. The Diocese and Cardinal Mooney had a duty to take reasonable steps to protect plaintiff S.B., a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

939. The Diocese and Cardinal Mooney also had a duty to take reasonable steps to prevent Brother Walsh from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including S.B.

940. The Diocese and Cardinal Mooney were supervising S.B., and had care, custody, and control of S.B., when he attended Cardinal Mooney as a student and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

941. These circumstances created a special relationship between the Diocese and S.B., and between Cardinal Mooney and S.B., which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

942. The Diocese and Cardinal Mooney breached each of the foregoing duties by failing to exercise reasonable care to prevent Brother Walsh from harming S.B., including sexually abusing him.

943. In breaching their duties, including hiring, retaining, and failing to supervise Brother Walsh, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn S.B., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for S.B. and other children who were under their supervision and in their care, custody, and control, the Diocese and Cardinal Mooney created a risk that S.B. would be sexually abused by Brother Walsh. The Diocese and Cardinal Mooney through their actions and inactions created an environment that placed S.B. in danger of unreasonable risks of harm under the circumstances.

944. In breaching their duties, including hiring, retaining, and failing to supervise Brother Walsh, giving him access to children, entrusting their tasks, premises, and



instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn S.B., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for S.B. and other children who were under their supervision and in their care, custody, and control, the Diocese and Cardinal Mooney acted willfully and with conscious disregard for the need to protect S.B. The Diocese and Cardinal Mooney through their actions and inactions created an environment that placed S.B. in danger of unreasonable risks of harm under the circumstances.

945. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of S.B.

946. As a direct and proximate result of the acts and omissions of the Diocese and Cardinal Mooney, Brother Walsh groomed and sexually abused S.B., which has caused S.B. to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

947. Plaintiff S.B. repeats and re-alleges all of his allegations above and below.

948. The Diocese and Cardinal Mooney engaged in reckless, extreme, and outrageous conduct by providing Brother Walsh with access to children, including plaintiff S.B., despite knowing that he would likely use his position to groom and to sexually abuse them, including S.B. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

949. As a result of this reckless, extreme, and outrageous conduct, Brother Walsh gained access to S.B. and sexually abused him.

950. The Diocese and Cardinal Mooney knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and S.B. did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**XXV. CAUSES OF ACTION AS TO PLAINTIFF J.W.**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

951. Plaintiff J.W. repeats and re-alleges all of his allegations above and below.

952. The Diocese and McQuaid had a duty to take reasonable steps to protect plaintiff J.W., a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

953. The Diocese and McQuaid also had a duty to take reasonable steps to prevent Father O'Malley from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including J.W.

954. The Diocese and McQuaid were supervising J.W., and had care, custody, and control of J.W., when he attended McQuaid as a student and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

955. These circumstances created a special relationship between the Diocese and J.W., and between McQuaid and J.W., which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

956. The Diocese and McQuaid breached each of the foregoing duties by failing to exercise reasonable care to prevent Father O'Malley from harming J.W., including sexually abusing him.

957. In breaching their duties, including hiring, retaining, and failing to supervise Father O'Malley, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn J.W., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for J.W. and other children who were under their supervision and in their care, custody, and control, the Diocese and McQuaid created a risk that J.W. would be sexually abused by Father O'Malley. The Diocese and McQuaid through their actions and inactions created an environment that placed J.W. in danger of unreasonable risks of harm under the circumstances.

958. In breaching their duties, including hiring, retaining, and failing to supervise Father O'Malley, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn J.W., his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for J.W. and other children who were under their supervision and in their care, custody, and control, the Diocese and McQuaid acted willfully and with conscious disregard for the need to protect J.W. The Diocese and McQuaid through their actions and inactions created an environment that placed J.W. in danger of unreasonable risks of harm under the circumstances.

959. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of J.W.

960. As a direct and proximate result of the acts and omissions of the Diocese and McQuaid, Father O'Malley groomed and sexually abused J.W., which has caused J.W. to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

961. Plaintiff J.W. repeats and re-alleges all of his allegations above and below.

962. The Diocese and McQuaid engaged in reckless, extreme, and outrageous conduct by providing Father O'Malley with access to children, including plaintiff J.W., despite knowing that he would likely use his position to groom and to sexually abuse them, including J.W. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

963. As a result of this reckless, extreme, and outrageous conduct, Father O'Malley gained access to J.W. and sexually abused him.

964. The Diocese and McQuaid knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and J.W. did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**XXVI. CAUSES OF ACTION AS TO PLAINTIFF KEVIN HIGLEY**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

965. Plaintiff Kevin Higley repeats and re-alleges all of his allegations above and below.

966. The Diocese and St. Mary's had a duty to take reasonable steps to protect plaintiff Kevin Higley, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

967. The Diocese and St. Mary's also had a duty to take reasonable steps to prevent Father Cloonan from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including Kevin.

968. The Diocese and St. Mary's were supervising Kevin, and had care, custody, and control of Kevin, when he served as an altar boy and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

969. These circumstances created a special relationship between the Diocese and Kevin, and between St. Mary's and Kevin, which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

970. The Diocese and St. Mary's breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Cloonan from harming Kevin, including sexually abusing him.

971. In breaching their duties, including hiring, retaining, and failing to supervise Father Cloonan, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Kevin, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Kevin and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Mary's created a risk that Kevin would be sexually abused by Father Cloonan. The Diocese and St. Mary's through their actions and inactions created an environment that placed Kevin in danger of unreasonable risks of harm under the circumstances.

972. In breaching their duties, including hiring, retaining, and failing to supervise Father Cloonan, giving him access to children, entrusting their tasks, premises, and instrumentalities to

him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Kevin, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Kevin and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Mary's acted willfully and with conscious disregard for the need to protect Kevin. The Diocese and St. Mary's through their actions and inactions created an environment that placed Kevin in danger of unreasonable risks of harm under the circumstances.

973. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of Kevin.

974. As a direct and proximate result of the acts and omissions of the Diocese and St. Mary's, Father Cloonan groomed and sexually abused Kevin, which has caused Kevin to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

975. Plaintiff Kevin Higley repeats and re-alleges all of his allegations above and below.

976. The Diocese and St. Mary's engaged in reckless, extreme, and outrageous conduct by providing Father Cloonan with access to children, including plaintiff Kevin Higley, despite knowing that he would likely use his position to groom and to sexually abuse them, including Kevin. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

977. As a result of this reckless, extreme, and outrageous conduct, Father Cloonan gained access to Kevin and sexually abused him.

978. The Diocese and St. Mary's knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Kevin did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**XXVII. CAUSES OF ACTION AS TO PLAINTIFF JAMES LENNOX**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

979. Plaintiff James Lennox repeats and re-alleges all of his allegations above and below.

980. The Diocese and Annunciation had a duty to take reasonable steps to protect plaintiff James Lennox, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

981. The Diocese and Annunciation also had a duty to take reasonable steps to prevent Father O'Neill from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including James.

982. The Diocese and Annunciation were supervising James, and had care, custody, and control of James, when he sought their help through an Alcoholics Anonymous program sponsored by Annunciation and the Diocese, and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

983. These circumstances created a special relationship between the Diocese and James, and between Annunciation and James, which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

984. The Diocese and Annunciation breached each of the foregoing duties by failing to exercise reasonable care to prevent Father O'Neill from harming James, including sexually abusing him.

985. In breaching their duties, including hiring, retaining, and failing to supervise Father O'Neill, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn James, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for James and other children who were under their supervision and in their care, custody, and control, the Diocese and Annunciation created a risk that James would be sexually abused by Father O'Neill. The Diocese and Annunciation through their actions and inactions created an environment that placed James in danger of unreasonable risks of harm under the circumstances.

986. In breaching their duties, including hiring, retaining, and failing to supervise Father O'Neill, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn James, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for James and other children who were under their supervision and in their care, custody, and control, the Diocese and Annunciation acted willfully and with conscious disregard for the need to protect James. The Diocese and Annunciation through their actions and inactions created an environment that placed James in danger of unreasonable risks of harm under the circumstances.

987. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of James.



988. As a direct and proximate result of the acts and omissions of the Diocese and Annunciation, Father O'Neill groomed and sexually abused James, which has caused James to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

989. Plaintiff James Lennox repeats and re-alleges all of his allegations above and below.

990. The Diocese and Annunciation engaged in reckless, extreme, and outrageous conduct by providing Father O'Neill with access to children, including plaintiff James Lennox, despite knowing that he would likely use his position to groom and to sexually abuse them, including James. Their misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

991. As a result of this reckless, extreme, and outrageous conduct, Father O'Neill gained access to James and sexually abused him.

992. The Diocese and Annunciation knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and James did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

**XXVIII. CAUSES OF ACTION AS TO PLAINTIFF JAKE GIOVATI**

**A. FIRST CAUSE OF ACTION – NEGLIGENCE**

993. Plaintiff Jake Giovati repeats and re-alleges all of his allegations above and below.

994. The Diocese and St. Christopher's had a duty to take reasonable steps to protect plaintiff Jake Giovati, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

995. The Diocese and St. Christopher's also had a duty to take reasonable steps to prevent Father O'Neill from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including Jake.

996. The Diocese and St. Christopher's were supervising Jake, and had care, custody, and control of Jake, when he learned to say his prayers under Father O'Neill's tutelage, during "confession," and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

997. These circumstances created a special relationship between the Diocese and Jake, and between St. Christopher's and Jake, which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

998. The Diocese and St. Christopher's breached each of the foregoing duties by failing to exercise reasonable care to prevent Father O'Neill from harming Jake, including sexually abusing him.

999. In breaching their duties, including hiring, retaining, and failing to supervise Father O'Neill, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Jake, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Jake and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Christopher's created a risk that Jake would be sexually abused by Father O'Neill. The Diocese

and St. Christopher's through their actions and inactions created an environment that placed Jake in danger of unreasonable risks of harm under the circumstances.

1000. In breaching their duties, including hiring, retaining, and failing to supervise Father O'Neill, giving him access to children, entrusting their tasks, premises, and instrumentalities to him, failing to train their personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Jake, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Jake and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Christopher's acted willfully and with conscious disregard for the need to protect Jake. The Diocese and St. Christopher's through their actions and inactions created an environment that placed Jake in danger of unreasonable risks of harm under the circumstances.

1001. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of Jake.

1002. As a direct and proximate result of the acts and omissions of the Diocese and St. Christopher's, Father O'Neill groomed and sexually abused Jake, which has caused Jake to suffer general and special damages as more fully described herein.

**B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

1003. Plaintiff Jake Giovati repeats and re-alleges all of his allegations above and below.

1004. The Diocese and St. Christopher's engaged in reckless, extreme, and outrageous conduct by providing Father O'Neill with access to children, including plaintiff Jake Giovati, despite knowing that he would likely use his position to groom and to sexually abuse them, including Jake. Their misconduct was so shocking and outrageous that it exceeds the reasonable

bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

1005. As a result of this reckless, extreme, and outrageous conduct, Father O'Neill gained access to Jake and sexually abused him.

1006. The Diocese and St. Christopher's knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Jake did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional and physical distress.

#### **XXIX. CPLR 1603 – NO APPORTIONMENT OF LIABILITY**

1007. Pursuant to CPLR 1603, the foregoing causes of action are exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(2), CPLR 1602(5), 1602(7) and 1602(11), thus precluding defendants from limiting their liability by apportioning some portion of liability to any joint tortfeasor.

#### **XXX. PRAYER FOR RELIEF**

1008. The plaintiffs demand judgment against the defendants named in their causes of action, together with compensatory and punitive damages to be determined at trial, and the interest, cost and disbursements pursuant to their causes of action, and such other and further relief as the Court deems just and proper.

1009. The plaintiffs specifically reserve the right to pursue additional causes of action, other than those outlined above, that are supported by the facts pleaded or that may be supported by other facts learned in discovery.

Dated: August 14, 2019

Respectfully Yours,

MARSH LAW FIRM PLLC

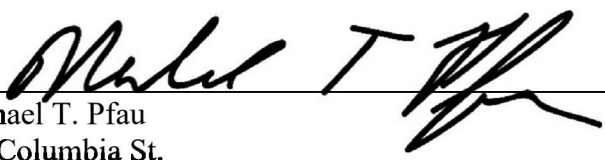
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