

NEW YORK STATE SUPREME COURT
ALBANY COUNTY

MICHAEL HARMON,

Plaintiff,

-against-

DIOCESE OF ALBANY and ST. CATHERINE'S
CENTER FOR CHILDREN,

Defendants.

Index No.:

Date Filed: March 3, 2020

SUMMONS

Plaintiff designates Albany
County as the place of trial.

The basis of venue is one
defendant's residence.

Child Victims Act Proceeding
22 NYCRR 202.72

TO THE ABOVE-NAMED DEFENDANTS:

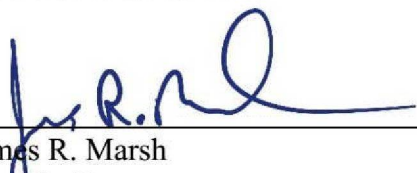
YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service (or 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: March 3, 2020

Respectfully Yours,

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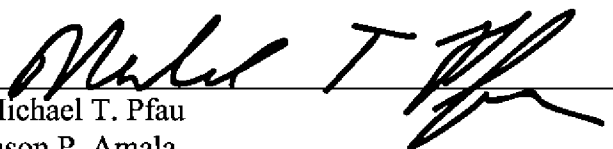
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COMPLAINT**Child Victims Act Proceeding**
22 NYCRR 202.72

Plaintiff, by and through his attorneys, the Marsh Law Firm PLLC and Pfau Cochran Vertetis Amala PLLC, respectfully alleges for his complaint the following:

I. INTRODUCTION

0. The Diocese of Albany (the "Diocese") knew for decades that its priests, clergy, religious brothers, 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.

1. In November 2018, following decades of denial and cover-up, the Diocese released a list of 46 priests that it determined had been credibly accused of sexually 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 plaintiff in this lawsuit is one of the 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

2. 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, plaintiff's claims were time-barred the day he turned 22 years old. The enactment of the CVA allows plaintiff, for the first time in his life, to pursue restorative justice in New York State.

III. PARTIES

3. Plaintiff Michael Harmon is an adult male who currently resides in Morrisonville, New York.

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

5. Upon information and belief, at all relevant times the Diocese conducted business as the "Diocese of Albany" and "Albany Diocese."

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

7. Upon information and belief, Father Edward Pratt ("Father Pratt") was a priest employed by the Diocese to serve Catholic families, including plaintiff Michael Harmon and his family. During the time Father Pratt was employed by the Diocese, he used his position as a priest to groom and to sexually abuse plaintiff Michael Harmon.

8. To the extent that the Diocese was a different entity, corporation, or organization during the period of time during which Father Pratt used his position as a priest to sexually abuse

plaintiff Michael Harmon, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

9. 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 Pratt used his position as a priest to sexually abuse plaintiff Michael Harmon, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

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

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

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

13. Upon information and belief, at all relevant times St. Catherine’s conducted business as “St. Catherine’s Group Home,” “St. Catherine’s Center for Children,” “St. Catherine’s Center,” or “St. Catherine’s.”

14. St. Catherine’s is a group home for children located in Albany, New York.

15. Upon information and belief, Father Edward Pratt was a priest employed by St. Catherine’s to serve Catholic families in its geographic jurisdiction, including plaintiff Michael Harmon and his family. During the time Father Edward Pratt was employed by St. Catherine’s, he used his position as a priest to groom and to sexually abuse plaintiff Michael Harmon.

16. To the extent that St. Catherine’s was a different entity, corporation, or organization during the period of time during which Father Pratt used his position as a priest to sexually abuse

Michael, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

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

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

IV. VENUE

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

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

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

V. STATEMENT OF FACTS

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

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

24. Upon information and belief, at all relevant times the Diocese employed priests and others who served Catholic families at St. Catherine's, including plaintiff Michael Harmon and his family.

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

26. 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. Catherine's.

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

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

29. Upon information and belief, at all relevant times St. Catherine's owned a children's group home.

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

31. Upon information and belief, at all relevant times St. Catherine's employed priests and others who served Catholic families, including plaintiff Michael Harmon and his family.

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

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

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

35. Upon information and belief, at all relevant times St. Catherine's materially benefited from the operation of St. Catherine's, including the services of Father Pratt and the services of those who managed and supervised Father Pratt.

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

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

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

39. Upon information and belief, at all relevant times Father Pratt was employed by the Diocese and assigned to St. Catherine's.

40. Upon information and belief, at all relevant times Father Pratt was a priest of St. Catherine's.

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

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

43. When plaintiff Michael Harmon was a minor, he and his parents were members of the Diocese and utilized the services of St. Catherine's.

44. At all relevant times, the Diocese and St. Catherine's, their agents, servants, and employees, held Father Pratt out to the public, to Michael, and to his parents, as their agent and employee.

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

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

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

48. At all relevant times, Michael and his parents believed that the Diocese and St. Catherine'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 Michael.

49. When Michael was a minor, Father Pratt sexually abused him.

50. Michael was sexually abused by Father Pratt when he was approximately 11 to 15 years old.

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

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

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

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

55. From approximately 1980 through 1985, Father Pratt exploited the trust and authority vested in him by defendants by grooming Michael to gain his trust and to obtain control over him as part of Father Pratt's plan to sexually molest and abuse Michael and other children.

56. Father Pratt used his position of trust and authority as a priest of the Diocese and of St. Catherine's to groom Michael and to sexually abuse him multiple times, including when Michael was under the supervision of, and in the care, custody, or control of, the Diocese, St. Catherine's, and Father Pratt.

57. At certain times, the sexual abuse of Michael by Father Pratt occurred at St. Catherine's.

58. Upon information and belief, at certain times, Father Pratt's sexual abuse of Michael occurred during activities that were sponsored by, or were a direct result of activities sponsored by, the Diocese and St. Catherine's, including when Michael was a resident of St. Catherine's.

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

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

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

62. Upon information and belief, at certain times between 1980 and 1985, defendants, their agents, servants, and employees knew or should have known that Father Pratt was sexually abusing Michael and other children at St. Catherine's and elsewhere.

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

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

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

66. Upon information and belief, the Diocese and St. Catherine's, their agents, servants, and employees, concealed the sexual abuse of children by Father Pratt 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 Pratt would continue to molest children.

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

68. Upon information and belief, the Diocese and St. Catherine's, their agents, servants, and employees, disregarded their knowledge that Father Pratt would use his position with them to sexually abuse children, including Michael.

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

70. Upon information and belief, the Diocese and St. Catherine'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

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

71. Upon information and belief, the Diocese and St. Catherine'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.

72. By reason of the wrongful acts of the Diocese and St. Catherine's as detailed herein, Michael 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 Michael has and/or will become obligated to expend sums of money for treatment.

VI. CAUSES OF ACTION

A. FIRST CAUSE OF ACTION – NEGLIGENCE

73. Plaintiff Michael Harmon repeats and re-alleges all of his allegations above and below.

74. The Diocese and St. Catherine's had a duty to take reasonable steps to protect plaintiff Michael Harmon, a child, from foreseeable harm when he was under their supervision and in their care, custody, and control.

75. The Diocese and St. Catherine's also had a duty to take reasonable steps to prevent Father Pratt from using the tasks, premises, and instrumentalities of his position with the defendants to target, groom, and sexually abuse children, including Michael.

76. The Diocese and St. Catherine's were supervising Michael, and had care, custody, and control of Michael, when he resided at St. Catherine's and at other times, during which time those defendants had a duty to take reasonable steps to protect him.

77. These circumstances created a special relationship between the Diocese and Michael, and between St. Catherine's and Michael, which imposed on each of those defendants a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

78. The Diocese and St. Catherine's breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Pratt from harming Michael, including sexually abusing him.

79. In breaching their duties, including hiring, retaining, and failing to supervise Father Pratt, 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 Michael, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Michael and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Catherine's created a risk that Michael would be sexually abused by Father Pratt. The Diocese and St. Catherine's through their actions and inactions created an environment that placed Michael in danger of unreasonable risks of harm under the circumstances.

80. In breaching their duties, including hiring, retaining, and failing to supervise Father Pratt, 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 Michael, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Michael and other children who were under their supervision and in their care, custody, and control, the Diocese and St. Catherine's acted willfully and with conscious disregard for the need to protect Michael. The Diocese and St. Catherine's through their actions and inactions created an environment that placed Michael in danger of unreasonable risks of harm under the circumstances.

81. It was reasonably foreseeable that defendants' breach of these duties of care would result in the sexual abuse of Michael.

82. As a direct and proximate result of the acts and omissions of the Diocese and St. Catherine's, Father Pratt groomed and sexually abused Michael, which has caused Michael to suffer general and special damages as more fully described herein.

B. SECOND CAUSE OF ACTION – OUTRAGE AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

83. Plaintiff Michael Harmon repeats and re-alleges all of his allegations above and below.

84. The Diocese and St. Catherine's engaged in reckless, extreme, and outrageous conduct by providing Father Pratt with access to children, including plaintiff Michael Harmon, despite knowing that he would likely use his position to groom and to sexually abuse them, including Michael. 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.

85. As a result of this reckless, extreme, and outrageous conduct, Father Pratt gained access to Michael and sexually abused him.

86. The Diocese and St. Catherine's knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Michael 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.

VII. CPLR 1603 – NO APPORTIONMENT OF LIABILITY

87. 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.

VIII. PRAYER FOR RELIEF

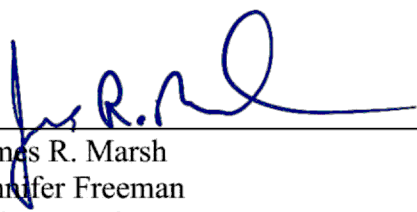
88. The plaintiff demands judgment against the defendants named in his causes of action, together with compensatory and punitive damages to be determined at trial, and the interest, cost and disbursements pursuant to their causes of action, and such other and further relief as the Court deems just and proper.

89. The plaintiff specifically reserves 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: March 3, 2020

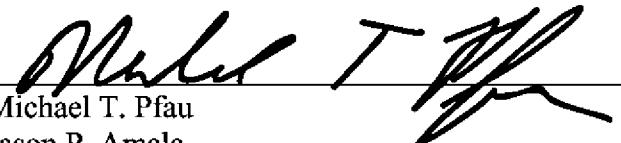
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