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PAUL JAMES HANLY JR
One Court Street
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Brown, William

The Holy Rosary Church of the City of Rochester, Monroe
County, New York
The Cathedral Community Church of Rochester, NY

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

State of New York

MONROE COUNTY CLERK'S OFFICE
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JAMIE ROMEO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

WILLIAM BROWN,

Plaintiff,

v.

THE HOLY ROSARY CHURCH OF THE CITY OF ROCHESTER,
MONROE COUNTY, NEW YORK; and THE CATHEDRAL
COMMUNITY CHURCH OF ROCHESTER, NY,

Defendants.

Index No.

SUMMONS

Date Index No. Purchased:
March 16, 2020

To the above named Defendant(s)

THE HOLY ROSARY CHURCH OF THE CITY OF ROCHESTER, MONROE COUNTY, NEW YORK,
414 Lexington Avenue, Rochester, Monroe County, New York; and
THE CATHEDRAL COMMUNITY CHURCH OF ROCHESTER, NY, 296 Flower City Park,
Rochester, Monroe County, New York

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney 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.

The basis of venue is one or more Defendant resides in Monroe County, New York, which is located in Monroe County, New York.

Dated: New York, New York
March 16, 2020

SIMMONS HANLY CONROY LLC



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Attorneys for Plaintiff
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

WILLIAM BROWN,

Plaintiff,

v.

THE HOLY ROSARY CHURCH OF THE CITY OF ROCHESTER,
MONROE COUNTY, NEW YORK; and THE CATHEDRAL
COMMUNITY CHURCH OF ROCHESTER, NY,

Defendants.

Index No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff William Brown, by his attorneys Simmons Hanly Conroy LLC and the Law Offices of Mitchell Garabedian, brings this action against The Holy Rosary Church of the City of Rochester, Monroe County, New York; and The Cathedral Community Church of Rochester, NY, and alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that the Defendants reside in New York.
2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.
3. Venue for this action is proper in the County of Monroe pursuant to CPLR 503 in that one or more of the Defendants reside in this County and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this County.

PARTIES

4. Plaintiff William Brown ("Plaintiff") is an individual residing in Knoxville, Tennessee.
5. Defendant Holy Rosary Church of the City of Rochester, Monroe County,

New York ("Holy Rosary") was a Roman Catholic parish within and under the authority of the Bishop of Rochester and was a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 414 Lexington Avenue, Rochester, Monroe County, New York. At relevant and material times, the Roman Catholic Bishop of Rochester, New York was the President of Holy Rosary, and the Roman Catholic Vicar General of Rochester, New York was the Vice-President of Holy Rosary.

6. Defendant The Cathedral Community Church of Rochester, NY ("Cathedral Community") is a Roman Catholic parish within and under the authority of the Bishop of Rochester and is a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 296 Flower City Park, Rochester, Monroe County, New York. As a result of a corporate merger, Defendant Cathedral Community is the legal successor to Defendant Holy Rosary.

FACTS COMMON TO ALL CLAIMS

7. Plaintiff and his family were parishioners of and attended Holy Rosary when Plaintiff was a minor child. Plaintiff served as an altar boy at Holy Rosary from approximately 1954 to approximately 1956, when Plaintiff was approximately eleven to approximately thirteen years of age. Plaintiff attended the parochial elementary school affiliated with Holy Rosary from approximately 1947 to approximately 1956, when Plaintiff was approximately four to approximately thirteen years of age.

8. Father Paul I. Cloonan ("Father Cloonan") was ordained a Roman Catholic priest in approximately 1954. From approximately 1954 to approximately 1957, Father Cloonan served as a priest at Defendant Holy Rosary. Father Cloonan died in 2015.

9. Through his positions at, within, or for Defendant Holy Rosary, Father Cloonan was put in direct contact with members of the Plaintiff's family, including Plaintiff, a minor parishioner of Defendant Holy Rosary.

10. From approximately 1954 to approximately 1955 when Plaintiff was approximately eleven to twelve years of age, Father Cloonan would ask Plaintiff to assist

Father Cloonan with chores in the attic of the Holy Rosary rectory.

11. Father Cloonan used such encounters, gained through his position at Holy Rosary which granted him access to Plaintiff when Plaintiff was approximately eleven to approximately twelve years of age, to sexually assault, sexually abuse, and/or have sexual contact with the Plaintiff on at least three occasions in violation of the laws of the State of New York.

Defendants' Responsibility for the Abuse Committed by Father Cloonan

12. At all times material hereto, Father Cloonan was under the management, supervision, employ, direction and/or control of Defendant Holy Rosary.

13. Through his positions at, within, or for Defendant Holy Rosary, Father Cloonan was put in direct contact with Plaintiff.

14. Father Cloonan used his position at, within, or for Defendant Holy Rosary and the implicit representations made by Defendant Holy Rosary about Father Cloonan's character that accompanied that position, to gain Plaintiff's trust and confidence and to create an opportunity to be alone with, and to sexually touch, Plaintiff.

15. Defendant Holy Rosary had the duty to reasonably manage, supervise, control and/or direct priests who served at Holy Rosary, and specifically, had a duty not to aid pedophiles such as Father Cloonan by assigning, maintaining, and/or appointing them to positions with access to minors.

16. Defendant Holy Rosary knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Father Cloonan, who sexually abused Plaintiff.

17. Defendant Holy Rosary had a duty to the Plaintiff to properly supervise Holy Rosary priests to ensure that priests did not use their positions with Holy Rosary as a tool for grooming and assaulting vulnerable children. Defendant Holy Rosary knew or should have known that Father Cloonan used his positions with Holy Rosary to sexually abuse minor children, including the Plaintiff.

Consequences of the Abuse

18. Plaintiff suffered personal physical and psychological injuries and damages as a result of Father Cloonan's actions, as well as other damages related thereto, as a result of the childhood sexual abuse Plaintiff sustained.

19. As a direct result of the Defendant Holy Rosary's conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; may incur future expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Father Cloonan's sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm he suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Negligent Hiring/Retention/Supervision/Direction

20. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 19 as if fully set forth herein.

21. Defendant Holy Rosary owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Father Cloonan in his role as priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Father Cloonan did not use his assigned position to injure minors by sexual assault, sexual abuse, or sexual contact in violation of the laws of the State of New York.

22. Defendant Holy Rosary at all relevant times represented that its facilities were safe places for minors to attend or visit, and that its priests were individuals to whom it was safe to entrust the care of minor children. Defendant Holy Rosary entered into an express and/or implied duty to safely treat Plaintiff and assumed the duty to

protect and care for him.

23. Father Cloonan sexually assaulted, sexually abused, and/or had sexual contact with Plaintiff when Plaintiff was a minor in the Holy Rosary rectory.

24. Defendant Holy Rosary negligently hired, retained, directed, and supervised Father Cloonan, though it knew or should have known that Father Cloonan posed a threat of sexual abuse to minors.

25. Defendant Holy Rosary knew or should have known of Father Cloonan's propensity for the conduct which caused Plaintiff's injuries prior to, or at the time of, the injuries' occurrence.

26. Defendant Holy Rosary was negligent in failing to properly supervise Father Cloonan.

27. The sexual abuse of children by adults, including priests, is a foreseeable result of negligence.

28. At all times material hereto, Defendant Holy Rosary's actions were willful, wanton, malicious, reckless, negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

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

30. Liabilities of Defendant Holy Rosary were transferred to, or assumed by, Defendant Cathedral Community. As a result, Defendant Cathedral Community is liable to the Plaintiff for the damages caused by Defendant Holy Rosary stated in this cause of action.

31. By reason of the foregoing, Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SECOND CAUSE OF ACTION
Negligence/Gross Negligence

32. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 19 as if fully set forth herein.

33. Defendant Holy Rosary knew, or were negligent in not knowing, that Father Cloonan posed a threat of sexual abuse to children.

34. The acts of Father Cloonan described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his respective employment, appointment, assignment, and/or agency with Defendant Holy Rosary.

35. Defendant Holy Rosary owed Plaintiff, a minor at the relevant times of abuse, a duty to protect him from Father Cloonan's sexual deviancy and the consequential damages, both prior to and/or subsequent to Father Cloonan's misconduct.

36. Defendant Holy Rosary's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damage set forth herein at length.

37. Defendant Holy Rosary:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others;
- b. failed adequately to supervise the activities of Father Cloonan;
- c. permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not its servants and/or agents and/or employees, upon premises or with instrumentalities under its control; and
- d. allowed the acts of omission and/or commission and/or any or all of

the allegations set forth in this Complaint to occur.

38. At all times material hereto, with regard to the allegations contained herein, Father Cloonan was under the supervision, employ, direction and/or control of Defendant Holy Rosary.

39. At all times material hereto, Defendant Holy Rosary's actions were willful, wanton, malicious, reckless, negligent and outrageous in their disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.

40. As a direct and/or indirect result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

41. Liabilities of Defendant Holy Rosary were transferred to, or assumed by, Defendant Cathedral Community. As a result, Defendant Cathedral Community is liable to the Plaintiff for the damages caused by Defendant Holy Rosary stated in this cause of action.

42. By reason of the foregoing, Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION

Breach of Non-Delegable Duty

43. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 19 as if fully set forth herein.

44. Plaintiff, when he was a minor, was placed in the care and supervision of the Defendant Holy Rosary for the purposes of, *inter alia*, providing Plaintiff with a safe environment in which to participate in religious, educational, youth and recreational activities. There existed a non-delegable duty of trust between Plaintiff and Defendant Holy Rosary.

45. Plaintiff was a vulnerable child when placed within the care of Defendant Holy Rosary.

46. As a consequence, Defendant Holy Rosary was in the best position to prevent Plaintiff's abuse, to learn of Father Cloonan's repeated sexual abuse of Plaintiff, and to stop it.

47. By virtue of the fact that Plaintiff was sexually abused as a minor child entrusted to the care of the Defendant Holy Rosary, Defendant Holy Rosary breached its non-delegable duty to Plaintiff.

48. At all times material hereto, Father Cloonan was under the supervision, employ, direction and/or control of Defendant Holy Rosary.

49. As a direct result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

50. Liabilities of Defendant Holy Rosary were transferred to, or assumed by, Defendant Cathedral Community. As a result, Defendant Cathedral Community is liable to the Plaintiff for the damages caused by Defendant Holy Rosary stated in this cause of action.

51. By reason of the foregoing, Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FOURTH CAUSE OF ACTION

Breach of Fiduciary Duty

52. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 19 as if fully set forth herein.

53. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendant Holy Rosary. This relationship is based on the entrustment of the Plaintiff while he was a minor child to the care and supervision of the agent or servant of the Defendant Holy Rosary. This entrustment of the Plaintiff to the care and supervision of the Defendant Holy Rosary, while the Plaintiff was a minor child, required Defendant Holy Rosary to assume a fiduciary relationship and to act in the best

interests of the Plaintiff, as well as to protect him while he was a minor and vulnerable child.

54. Pursuant to their fiduciary relationship, Defendant Holy Rosary was entrusted with the well-being, care, and safety of Plaintiff.

55. Pursuant to their fiduciary relationship, Defendant Holy Rosary assumed a duty to act in the best interests of Plaintiff.

56. Defendant Holy Rosary breached its fiduciary duty to Plaintiff.

57. At all times material hereto, the actions and/or inactions of Defendant Holy Rosary were willful, wanton, malicious, reckless, negligent and outrageous in their disregard for the rights and safety of Plaintiff.

58. As a direct result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

59. Liabilities of Defendant Holy Rosary were transferred to, or assumed by, Defendant Cathedral Community. As a result, Defendant Cathedral Community is liable to the Plaintiff for the damages caused by Defendant Holy Rosary stated in this cause of action.

60. By reason of the foregoing, Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FIFTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

61. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 19 as if fully set forth herein.

62. As described above, the actions of Defendant Holy Rosary, its agents, servants, and/or employees were conducted in a negligent and/or grossly negligent manner.

63. Defendant Holy Rosary's actions endangered Plaintiff's safety and caused

him to fear for his own safety.

64. As a direct and proximate result of Defendant Holy Rosary's actions, which included but were not limited to negligent and/or grossly negligent conduct, Plaintiff suffered and will continue to suffer the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

65. Liabilities of Defendant Holy Rosary were transferred to, or assumed by, Defendant Cathedral Community. As a result, Defendant Cathedral Community is liable to the Plaintiff for the damages caused by Defendant Holy Rosary stated in this cause of action.

66. By reason of the foregoing, Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SIXTH CAUSE OF ACTION

Breach of Duty *in Loco Parentis*

67. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 19 as if fully set forth herein.

68. While he was a minor, Plaintiff was entrusted by his parents to the control of Defendant Holy Rosary, as well as directly to Father Cloonan, an agent or servant of Defendant Holy Rosary, for the purposes of, *inter alia*, providing Plaintiff with appropriate guidance and an opportunity to enjoy educational and youth activities under responsible adult supervision. Defendant Holy Rosary owes — and owed — a duty to children entrusted to it to act *in loco parentis* and to prevent foreseeable injuries.

69. Defendant Holy Rosary breached its duty to act *in loco parentis*.

70. At all times material hereto, Defendant Holy Rosary's actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

71. As a direct result of Defendant Holy Rosary's conduct, Plaintiff has

suffered and will continue to suffer the injuries and damages described herein.

72. Liabilities of Defendant Holy Rosary were transferred to, or assumed by, Defendant Cathedral Community. As a result, Defendant Cathedral Community is liable to the Plaintiff for the damages caused by Defendant Holy Rosary stated in this cause of action.

73. By reason of the foregoing, Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

WHEREFORE Plaintiff, demands judgment against the Defendants on each cause of action as follows:

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

JURY DEMAND

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

Dated: March 16, 2020
New York, New York

Respectfully Submitted,

/s/ Paul J. Hanly, Jr.
Paul J. Hanly, Jr.

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