

NEW YORK STATE SUPREME COURT  
CAYUGA COUNTY

BERNARD CONNELL,

Plaintiff,

-against-

ST. BERNARD CATHOLIC CHURCH,

Defendant.

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

Date Filed:

**SUMMONS**

Plaintiff designates Cayuga  
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: May 19, 2020

Respectfully Yours,

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Index No.:

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

Plaintiff Bernard Connell, 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**

1. This claim arises from childhood sexual abuse that Plaintiff Bernard Connell suffered at the hands of Father Paul Cloonan, an ordained priest who served at St. Bernard Catholic Church.

2. At the time Plaintiff Bernard Connell was sexually abused by Father Paul Cloonan, St. Bernard Catholic Church knew or should have known that he posed a threat of foreseeable harm to Bernard, but it failed to take reasonable steps to protect Bernard from that harm.

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

### **III. PARTIES**

4. Plaintiff Bernard Connell is an adult male who currently resides in Frankfort, Indiana.

5. At all relevant times defendant St. Bernard Catholic Church (“St. Bernard’s”) was a not-for-profit religious corporation organized under New York law.

6. At all relevant times St. Bernard’s was a not-for-profit religious corporation organized under New York law with its principal office in Scipio Center, New York.

7. At all relevant times St. Bernard’s conducted business as “St. Bernard Catholic Church,” “St. Bernard Catholic Parish,” “St. Bernard Parish,” “St. Bernard Church,” or “St. Bernard’s.”

8. At all relevant times St. Bernard’s employed priests, clergy, employees, volunteers, and others who served various Catholic institutions and families, including plaintiff Bernard Connell and his family.

9. At all relevant times St. Bernard’s was a parish with a church located in Scipio Center, New York.

10. Upon information and belief, St. Bernard’s closed in 2006. To the extent St. Bernard’s closed or was merged with another entity, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit. Any and all such entities, past and present, are collectively referred to herein as “St. Bernard’s.”

11. Father Paul Cloonan was a priest employed by St. Bernard’s to serve Catholic families in its geographic jurisdiction, including plaintiff Bernard Connell and his family. During the time Father Paul Cloonan was employed by St. Bernard’s, he used his position as a priest to groom and to sexually abuse plaintiff Bernard Connell.

12. To the extent that St. Bernard'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 Bernard, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

13. To the extent St. Bernard'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 Bernard, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

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

#### **IV. VENUE**

15. Venue is proper because at all relevant times St. Bernard's was a domestic corporation authorized to transact business in New York with its principal office located in Scipio Center, New York.

16. Venue is proper because Cayuga is the county in which a substantial part of the events or omissions giving rise to plaintiff's claims occurred.

17. The amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

#### **V. STATEMENT OF FACTS**

18. At all relevant times St. Bernard's owned a parish and church.

19. At all relevant times St. Bernard's held itself out to the public as the owner of St. Bernard's.

20. At all relevant times St. Bernard's employed priests, clergy, employees, volunteers, and others who served Catholic families, including plaintiff Bernard Connell and his family.

21. At all relevant times St. Bernard's, its agents, servants, and employees managed, maintained, operated, and controlled St. Bernard's, and held out to the public its agents, servants and employees as those who managed, maintained, operated, and controlled St. Bernard's.

22. At all relevant times St. Bernard's was responsible for and did the staffing and hiring at St. Bernard's.

23. At all relevant times St. Bernard's was responsible for and did the recruitment and staffing of volunteers at St. Bernard's.

24. At all relevant times St. Bernard's materially benefited from the operation of St. Bernard's, including the services of Father Cloonan and the services of those who managed and supervised Father Cloonan.

25. At all relevant times Father Cloonan was a priest of St. Bernard's.

26. At all relevant times Father Cloonan was on the staff of, was an agent of, and served as an employee of St. Bernard's.

27. At all relevant times Father Cloonan was acting in the course and scope of his employment with St. Bernard's.

28. At all relevant times Father Cloonan had an office on the premises of St. Bernard's.

29. When plaintiff Bernard Connell was a minor, he and his parents were members of St. Bernard's, including when Bernard was a parishioner and an employee of the defendant.

30. St. Bernard's, its agents, servants, and employees, held Father Cloonan out to the public, to Bernard, and to his parents, as their agent and employee.

31. St. Bernard's, its agents, servants, and employees, held Father Cloonan out to the public, to Bernard, and to his parents, as having been vetted, screened, and approved by the defendant.

32. Bernard and his parents reasonably relied upon the acts and representations of St. Bernard's, its agents, servants, and employees, and reasonably believed that Father Cloonan was an agent or employee of St. Bernard's who was vetted, screened, and approved by St. Bernard's.

33. Bernard and his parents trusted Father Cloonan because St. Bernard's held him out as someone who was safe and could be trusted with the supervision, care, custody, and control of Bernard.

34. Bernard and his parents believed that St. Bernard's would exercise such care as would a parent of ordinary prudence in comparable circumstances when St. Bernard's assumed supervision, care, custody, and control of Bernard.

35. When Bernard was a minor, Father Cloonan sexually abused him.

36. Bernard was sexually abused by Father Cloonan when he was approximately 16 to 18 years old.

37. The sexual abuse occurred numerous times and included, but was not limited to, Father Cloonan fondling Bernard's genitals, Father Cloonan taking pornographic photographs of Bernard, Father Cloonan performing oral sex on Bernard, Father Cloonan forcing Bernard to perform oral sex on Father Cloonan, and Father Cloonan anally penetrating Bernard.

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

39. Based on the representations of St. Bernard's that Father Cloonan was safe and trustworthy, Bernard and his parents allowed Bernard to be under the supervision of, and in the

care, custody, and control of, Father Cloonan, including during the times when Bernard was sexually abused by Father Cloonan.

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

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

42. From approximately 1984 through approximately 1986, Father Cloonan exploited the trust and authority vested in him by St. Bernard's by grooming Bernard to gain his trust and to obtain control over him as part of Father Cloonan's plan to sexually molest and abuse Bernard and other children.

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

44. The sexual abuse of Bernard by Father Cloonan occurred at St. Bernard's, including at the rectory of St. Bernard's.



45. Father Cloonan's sexual abuse of Bernard occurred during activities that were sponsored by, or were a direct result of activities sponsored by, St. Bernard's, including during Bernard's employment as a groundskeeper for St. Bernard's.

46. Prior to the times mentioned herein, Father Cloonan was a known sexual abuser of children.

47. At all relevant times, St. Bernard's, its agents, servants, and employees, knew or should have known that Father Cloonan was a known sexual abuser of children.

48. At all relevant times, it was reasonably foreseeable to St. Bernard's, its agents, servants, and employees that Father Cloonan's sexual abuse of children would likely result in injury to others, including the sexual abuse of Bernard and other children by Father Cloonan.

49. St. Bernard's, its agents, servants, and employees knew or should have known that Father Cloonan was sexually abusing Bernard and other children at St. Bernard's and elsewhere.

50. St. Bernard's, its agents, servants, and employees knew or should have known that the sexual abuse by Father Cloonan of Bernard was ongoing.

51. St. Bernard's, its agents, servants, and employees, knew or should have known before and during Father Cloonan's sexual abuse of Bernard that priests, clergy, teachers, school administrators, employees, and volunteers, and other persons serving St. Bernard's had used their positions with the defendant to groom and to sexually abuse children.

52. St. Bernard's, its agents, servants, and employees, knew or should have known before and during Father Cloonan's sexual abuse of Bernard that such priests, clergy, teachers, school administrators, employees, and volunteers, and other persons could not be "cured" through treatment or counseling.

53. St. Bernard's, its 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.

54. St. Bernard's, its agents, servants, and employees, consciously and recklessly disregarded their knowledge that Father Cloonan would use his position with the defendant to sexually abuse children, including Bernard.

55. St. Bernard's, its agents, servants, and employees, disregarded their knowledge that Father Cloonan would use his position with them to sexually abuse children, including Bernard.

56. St. Bernard's, its 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 Bernard, so that Father Cloonan could continue serving them despite their knowledge of that danger.

57. St. Bernard's, its 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 Bernard, and he did in fact suffer severe emotional and psychological distress and personal physical injury as a result of its wrongful conduct.

58. St. Bernard's, its 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.

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

## **VI. CAUSES OF ACTION**

### **A. FIRST CAUSE OF ACTION – NEGLIGENCE**

60. Plaintiff Bernard Connell repeats and re-alleges all of his allegations above and below.

61. St. Bernard's had a duty to take reasonable steps to protect plaintiff Bernard Connell, a child, from foreseeable harm when he was under its supervision and in its care, custody, and control, including when he was a member, parishioner, and employee and Father Cloonan sexually abused him.

62. St. Bernard'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 defendant to target, groom, and sexually abuse children, including Bernard.

63. These circumstances created a special relationship between St. Bernard's and Bernard, which imposed on the defendant a duty to exercise the degree of care of a parent of ordinary prudence in comparable circumstances.

64. St. Bernard's breached each of the foregoing duties by failing to exercise reasonable care to prevent Father Cloonan from harming Bernard, including sexually abusing him.

65. In breaching its duties, including hiring, retaining, and failing to supervise Father Cloonan, giving him access to children, entrusting its tasks, premises, and instrumentalities to him, failing to train its personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Bernard, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Bernard and other children who were under its supervision and in its care, custody, and control, St. Bernard's created a risk that Bernard would be sexually abused by Father Cloonan. St. Bernard's through its actions and inactions created an environment that placed Bernard in danger of unreasonable risks of harm under the circumstances.

66. In breaching its duties, including hiring, retaining, and failing to supervise Father Cloonan, giving him access to children, entrusting its tasks, premises, and instrumentalities to him, failing to train its personnel in the signs of sexual predation and to protect children from sexual abuse and other harm, failing to warn Bernard, his parents, and other parents of the danger of sexual abuse, and failing to create a safe and secure environment for Bernard and other children who were under its supervision and in its care, custody, and control, St. Bernard's acted willfully and with conscious disregard for the need to protect Bernard. St. Bernard's through its actions and inactions created an environment that placed Bernard in danger of unreasonable risks of harm under the circumstances.

67. It was reasonably foreseeable that defendant's breach of these duties of care would result in the sexual abuse of Bernard.

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

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

69. Plaintiff Bernard Connell repeats and re-alleges all of his allegations above and below.

70. St. Bernard's engaged in reckless, extreme, and outrageous conduct by providing Father Cloonan with access to children, including plaintiff Bernard Connell, despite knowing that he would likely use his position to groom and to sexually abuse them, including Bernard. Its 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.

71. As a result of this reckless, extreme, and outrageous conduct, Father Cloonan gained access to Bernard and sexually abused him.

72. St. Bernard's knew that this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Bernard 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**

73. 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 defendant from limiting its liability by apportioning some portion of liability to any joint tortfeasor.

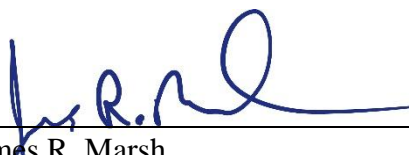
**VIII. PRAYER FOR RELIEF**

74. Plaintiff Bernard Connell demands judgment against the defendant 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 his causes of action, and such other and further relief as the Court deems just and proper.

75. 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: May 19, 2020

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