

§STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

John Rozak, Rosemary Ailinger, trustees of
Blessed Sacrament Roman Catholic Church Society of
Tonawanda,
Thomas Friedman, trustee of the
Our Lady of Peace, Roman Catholic Church
Timothy Creenan, Procurator of the
Our Lady of Peace Roman Catholic Church
Eugene Hanitz, Procurator of
St. Bernadette of Orchard Park-
Richard W. Jauch, trustee of
St. Aloysius Gonzaga Roman Catholic Church
Thomas O'Neill, Anne Marie Agostinelli trustees of
St. John XXIII in West Seneca

**VERIFIED
COMPLAINT**

Index No.

Plaintiff

v.

Diocese of Buffalo,
Bishop of Buffalo, Michael W. Fisher
Pastor Michael Parker
Fr. James Ciupe
Rev. Thomas Mahoney
Rev. David A. Bellittiere
Rev. John E. Stanton

Defendants

Plaintiffs, John Rozak, Rosemary Ailinger, trustees of Blessed Sacrament Roman Catholic Church Society of Tonawanda, Thomas Friedman, trustee of the Our Lady of Peace Roman Catholic Church Timothy Creenan, Procurator Our Lady of Peace Roman Catholic Church, Eugene Hanitz,

Procurator of St. Bernadette of Orchard Park, Richard W. Jauch, trustee of St. Aloysius Gonzaga Roman Catholic Church, Thomas O'Neill, Anne Marie Agostinelli trustees of St. John XXIII in West Seneca by their attorneys James I. Myers, PLLC, and John Flaherty for their Complaint, alleges as follows:

1. Plaintiffs John Rozak and Rosemary Ailinger are trustees of the Blessed Sacrament Roman Catholic Church Society of Tonawanda, a religious corporation, which parish (church) is located at 263 Claremont Avenue, Tonawanda.

2. Plaintiff John Rozak is also Procurator for Blessed Sacrament Parish, Tonawanda NY related to the parish hierarchical recourse against the decree dated 25 November 2024 issued by Bishop Fisher, Bishop of Buffalo which merged Blessed Sacrament Parish in Tonawanda with that of St. John the Baptist Parish in Kenmore in an extinctive union (cf. CIC canons 121 and 515 §2).

3. The Vatican on March 20, 2025 accepted Blessed Sacrament Parish recourse for examination and stated in part.

In consideration of the text of the aforementioned decree that states, "the possibility of alienating this property has also been suggested," the requested suspension of the aforementioned act of extinctive merger is hereby **GRANTED**, for the duration of the recourse (cf. can. 1737 §3).

4. Plaintiff, John Rozak trustee resides at 426 University Avenue, Buffalo, New York and Rosemary Ailinger resides at 315 Villa Ave., Buffalo, New York 14216

5. Plaintiff, Thomas Friedman is a trustee of Our Lady of Peace Roman Catholic Church, a religious corporation located at 10950 Main Street, Clarence, New York 14031

6. Timothy Creenan is the Procurator for Our Lady of Peace Roman Catholic Church, a religious corporation related to the parish hierarchical recourse against the decree dated 19 November 2024

issued by Bishop Fisher, Bishop of Buffalo which merged Our Lady of Peace Roman Catholic Church in Clarence with that of the Nativity of the Blessed Virgin Mary in Harris Hill in an extinctive union (cf. CIC canons 121 and 515 §2).

7. The Vatican on May 2, 2025 accepted the recourse for examination and stated in part.

In consideration of the text of the aforementioned decree that states, “the possibility of alienating this property has also been suggested,” this Office hereby also decrees the **SUSPENSION** of the aforementioned act of extinctive merger, for the duration of the recourse (cf. can. 1737 §3).

8. Plaintiff Thomas Friedman, trustee resides at 9930 Greiner Road, Clarence, New York 14031 and Timothy Creenan resides at 5045 Winding Lane, Clarence, New York 14031.t

9. Eugene Hanitz is the Procurator for St. Bernadette’s Roman Catholic Church, a religious corporation, located at 5930 S. Abbott Road, Orchard Park, NY 14127, related to the parish hierarchical recourse against the decree issued 12 November 2024 issued by the Bishop of Buffalo the Most Revered Michael W. Fisher which merged **Saint Bernadette in Orchard Park** with that of the Saints Peter and Paul in Hamburg, both located in the Diocese of Buffalo, in an extinctive union (cf. CIC canons 121 and 515 §2).

10. The Vatican on March 20, 2025 accepted St. Bernadette’s Roman Catholic Church petition for recourse for examination and stated in part.

In consideration of the text of the aforementioned decree that states, “the possibility of alienating this property has also been suggested,” the requested suspension of the aforementioned act of extinctive merger is hereby **GRANTED**, for the duration of the recourse (cf. can. 1737 §3).

11. Plaintiff Eugene Hanitz resides at 121 Old Orchard Lane, Orchard Park, N.Y. 14127

12. Plaintiff, Richard W. Jauch is a trustee of St. Aloysius Gonzaga Roman Catholic Church, a religious corporation located at 157 Cleveland Drive, Cheektowaga New York 14215.

13. Ellen Missert is the Procurator for St. Aloysius Gonzaga Parish in Cheektowaga, a religious corporation related to the parish hierarchical recourse against the decree dated December 17, 2024 issued by Bishop Fisher, Bishop of Buffalo which merged St. Aloysius Gonzaga Parish in Cheektowaga with that of Christ the King Parish in Snyder in an extinctive union (cf. CIC canons 121 and 515 §2).

14. The Vatican on March 20, 2025 accepted St. Aloysius Gonzaga Parish in Cheektowaga recourse for examination and stated in part.

In consideration of the text of the aforementioned decree that states, “the possibility of alienating this property has also been suggested,” the requested suspension of the aforementioned act of extinctive merger is hereby **GRANTED** for the duration of the recourse (cf. can. 1737 §3).

15. Plaintiff Richard W. Jauch, trustee resides at 20 Eldon Road, Buffalo, New York 14215.

16. Plaintiffs Thomas O’Neill and Anne Marie Agostinelli are trustees of St. John XXIII in West Seneca, a religious corporation, which parish (church) is located at 1 Arcade Street, West Seneca, New York 14224.

17. Cheryl Bauer is the Procurator for St. John XXIII in West Seneca, a religious corporation related to the parish hierarchical recourse against the decree dated March 20, 2025 issued by Bishop Fisher, Bishop of Buffalo which merge, St. John XXIII in West Seneca with that of Queen of Heaven Parish in West Seneca in an extinctive union (cf. CIC canons 121 and 515 §2).

18. The Vatican on March 20, 2025 accepted St. John XXIII in West Seneca recourse for examination and stated in part.

In consideration of the text of the aforementioned decree that states, “the possibility of alienating this property has also been suggested,” this Office hereby also decrees the **SUSPENSION** of the aforementioned act of extinctive merger, for the duration of the recourse (cf. can. 1737 §3).

19. **Exhibit "A"** attached are Vatican Dicastery for the Clergy a) March 20, 2025 Decree to the Procurator of **Blessed Sacrament Parish in Tonawanda**, b) May 2, 2025 Decree to the Procurator for the **Our Lady of Peace in Clarence**, c) March 20, 2025 Decree to the Procurator for **Saint Bernadette in Orchard Park**, d) March 20, 2025 Decree to the Procurator of **St. Aloysius Gonzaga Parish in Cheektowaga** and e) March 20, 2025 Decree to the Procurator of **St. John XXIII in West Seneca**. In all five (5) Decrees, the Vatican accepted the parish recourse for examination and **GRANTED** the requested suspension of the aforementioned act of extinctive merger.

20. Plaintiff, Thomas O'Neill trustee resides at 176 Cranwood Drive, West Seneca, New York 14224, and Anne Marie Agostinelli, trustee resides at 105 Suburban Court, West Seneca, New York 14224.

21. Defendant Diocese of Buffalo, is a suffragan diocese within the metropolitan province of the Archdiocese of New York, with its main office is located at 795 Main Street, Buffalo, New York 14203.

22. Defendant Bishop of Buffalo, Most Reverend Michael W. Fisher has an office at 795 Main Street, Buffalo, New York 14203.

23. Defendant Pastor Michael Parker is the parish priest of Blessed Sacrament Roman Catholic Church Society of Tonawanda, and resides at 1085 Englewood Avenue, Tonawanda, New York 14223

24. Defendant Fr. James Ciupe is the parish priest of St. Bernadette Parish with an office at 43 Argyle Place, Orchard Park, New York 14127

25. Defendant Rev. Thomas Mahoney is the parish priest of Our Lady of Peace Parish and resides at 4375 Harris Hill Rd, Williamsville, New York 14221

26. Defendant Rev David A. Belittiere is the parish priest of St. Aloysius Gonzaga Roman Catholic Church, and resides at Infant of Prague Roman Catholic Church, 921 Cleveland Dr. Cheektowaga, NY 14225

27. Defendant Rev. John E. Stanton is the parish priest of St. John XXIII, with an office at 1 Arcade Street, West Seneca, New York 14224

DIOCESE OF BUFFALO CHAPTER 11 BANKRUPTCY

27. The Diocese of Buffalo filed a Chapter 11 Bankruptcy petition in February 2020 in the Unites States Bankruptcy court in the Western District of New York for protection in response to multiple law suits which were filed by victims-survivors under the Child Victims Act (CVA).

28. In April 2025, the Diocese of Buffalo announced a settlement in principle with the Official Committee of Unsecured Creditors for \$150,000,000. None of the named plaintiffs were part of the settlement discussions nor were a party to the Bankruptcy proceeding or the settlement in principle.

29. By filing the Bankruptcy petition, the Diocese submitted to, consented and agreed to bound by the secular bankruptcy law and New York State law.

30. The April 2025 settlement in principle under the bankruptcy law requires Court approval which has not occurred. (Upon information and belief, the settlement in principle agreement has not been submitted to the Bankruptcy Court Judge for approval).

31. Plaintiffs have not been provided with the actual settlement in principle document and are unaware of the settlement's principle terms and conditions.

32. The Diocese has informed plaintiffs parishes that the settlement in principle agreement provides for the Diocese to pay \$150,000,000 and that the Diocese has instructed the parishes to contribute towards the Diocese payment.

33. That the Diocese requested contribution by plaintiffs Parishes is for uses inconsistent with and contrary to the purposes for which the parishes were created, and the contributions would be inconsistent with plaintiffs Parishes religious, charitable, benevolent and educational purposes.

33. On June 6, 2025 the Hon. Carl L. Bucki, Chief U.S.B.J., W.D.N.Y. issued the Court's Decision and Order **IN RE The DIOCESE OF BUFFALO, N.Y.**, Debtor BK 20-10322 CLB, 2025 WL 1684315, -- B.R—(2025). The Court held that the Diocese of Buffalo is subject to the Not-For-Profit Law section 513, that under New York law, a charitable corporation must honor a donor's direction and intention, and that the Diocese's motion seeks to use the sale proceeds for inconsistent purposes like funding a settlement of abuse claims. The Court stated "Such use of proceeds from targeted gifts would violate donor intent and is therefore not permitted under New York law."

DIOCESE DEMANDS FOR PARISH PAYMENTS FOR SETTLEMENT

35. The Diocese has demanded that the Western New York parishes shall make payments totaling \$80 Million towards the \$150,000,000.00 to be paid by the Diocese.

36. In anticipation of the possible settlement with abuse victims and the Diocese need to fund the possible settlement, the Diocese issued a series of Decrees of Extinctive Mergers between

various Parishes, including but not limited to the parishes represented by plaintiffs' trustees and Procurators.

34. The Diocese of Buffalo Office of Communications June 16, 2025 Communication stated that the contribution allocation formula based upon unrestricted cash and investments are as follows:

Parish Level Unrestricted Cash & Investment Assets	Percent Applied for Contribution
- Less than \$250,000	10%
- Less than \$500,000	20%
- -Less than \$750,000	45%
- Less than \$1,000,000	55%
- More than \$1,000,000	65%
- More than \$3,000,000	75%
- Merging/Closing Parishes	80%

35. All Plaintiffs' parishes were subject to Reverend Michael W. Bishop, Bishop of Buffalo, Decrees of Extinctive Merger, and as such are required to turn over 80% of the Parish unrestricted cash and investments.

36. Defendants Diocese of Buffalo and the Most Rev. Bishop Michael W. Fisher publicly represented that:

Parishes appealing their closure to the Vatican through the petition process are still assessed at 80 percent of their unrestricted cash. If the appeal is successful and the closure decision is overturned the parish will be refunded the difference between the 80 percent assessment and the rate that would have applied had the parish not been designated for closure. (Diocese of Buffalo Office of Communications June 9, 2025 release)

PLAINTIFFS' CAUSE ACTION AGAINST THE DEFENDANTS

37. Plaintiffs repeats and realleges the allegations contained paragraphs 1-36 above with the same force and effect.

37. The Diocese and the Bishop, despite the Vatican suspension of the Bishop's Decrees of Extinctive has instructed plaintiffs' Parishes to pay 80% of the parish funds to the Diocese no later than July 15, 2025.

39. The Diocese and the Bishop had actual and constructive knowledge of the Vatican suspension of the Bishop Decrees of Extinctive Merger for plaintiffs' parishes.

40. Rather than comply with the Vatican order granting the requests of the Bishop's Degrees of Extinctive Mergers, the Diocese and the Bishop is requiring the payments by July 15, 2025 which if made would be catastrophic and likely would severely, if not fatally destroy the parishes.

41. The Diocese and the Bishop ignores the irreparable harm the parishes would suffer by turning over the 80%, since the parishes would be unable to adequately function and serve its community.

42. Severe and irreparable harm would be inflicted upon plaintiffs' parishes if 80% of the unrestricted cash and investments are paid to the Diocese by July 15, 2025.

43. The vast majority of the cash and investments, if not all in the parishes were made to the parishes for the sole purpose and use of and in the existing parishes. None of the monies contributed to the Parishes were for the payment of the Diocese's victims of abuse.

44. If Blessed Sacrament Parish were required to pay the 80%, it is highly likely that the Parish would have to close their day car center which services 50 families, 180 families will lose the access to the food pantry, the faithful without personal transportation will have difficulty going to church, and other active parish and community outreach programs would be restricted or eliminated.

45. Our Lady of Peace Parish is a viable Parish with strong participation by the Faithful, many outreach ministries, and excellent finances. Attached as **Exhibit "B"** is Procurator Timothy M. Creenan's January 10, 2025 letter appeal on the extinctive merger of Our Lady of Peace Parish.

46. St. Aloysius Gonzaga Parish is a vibrant and viable community, marked by strong participation, over a dozen outreach ministries, and solid financial health. Serving a vulnerable area, the paying of the 80% and the merging of the parish would impose significant hardships due to transportation and parking challenges, and the active outreach efforts would be severely impacted. Attached as **Exhibit "C"** is a Statement of the impact on the parish if payment was made.

47. St. Bernadette Parish is a vibrant and viable community that has been and will be severely hampered in its ability to carry out its functions both spiritually and materially, possibility resulting in its extinction. The 80% assessment is \$723,666.00. Currently, there are important maintenance issues like roof repairs, HVAC issues, safety regarding parking lot handicap marking, fire lanes safety lanes markings etc that would be ordinarily addresses by the maintenance. The maintenance issues would involve thousands of dollars not being spent with the threat of the 80% of money being taken away from the Urgent Needs Fund.

Funds from the John Paul fund contains funds from the Parish Neighbors Fund which support all those in need of assistance of food and others items will be impacted. Scholarship fund for the kids who are receiving scholarship funds or prospective applicants are affected. St. Bernadette normally operates with a balance sheet of approximately 900K annually, paying out \$723,666 will impair all operations.

The paying out of \$723,666 places the parish existence in question, negates the Vatican suspension of the Bishop merger decree, and violates the intent and spirit of the donors' contributions to the parish.

48. St. John XXIII is a growing Parish, and its financial stability is stronger than ever. The diocese approved the purchase of a \$375,000 Rank Pipe Organ in 2023 which shows that the Diocese believes that the Parish is sound and viable. St. John XXIII has strong social justice outreach which partners with Love Center on collections for food, toiletries, school supplies etc., and the closing would not only affect the parishioners, but would affect the poor all around. Spiritual growth, and is most accessible to the elderly and persons with disabilities. **Exhibit "D"** is a statement on the Impact of Assessment on St. John XXIII by the two trustees and the Procurator.

49. Plaintiffs have no adequate remedy at law

50. By reason of the foregoing, plaintiffs are entitled to a Temporary Restraining Order to prevent the immediate and irreparable injury and loss to the parishes, a preliminary injunction to prevent the Diocese receiving the parishes monies that would severely impair the parishes to continue to and permanent injunction enjoining and restraining defendants from paying, and receiving the contribution of 80% or any other amount from plaintiffs parishes to the Diocese for a contribution to a fund for the payment to victims of abuse as set forth in the Diocese bankruptcy proceeding.

WHEREFORE, plaintiffs respectfully judgment against the defendants as follows

- I) The defendants, Pastor Michael Parker, Fr. James Ciupe, Rev. Thomas Mahoney, Rev. David A. Bellittiere, and Rev. John E. Stanton be restrained and enjoined

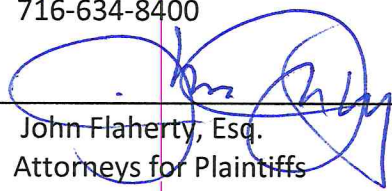
permanently during the pendency of this action and for the duration of the recourse, from the payment of the 80% assessment to the Diocese for each of the plaintiffs' parishes and for any other amount towards the settlement of the victims' abuse

- II) The defendants Diocese of Buffalo and the Bishop of Buffalo, Most. Rev. Michael W. Fisher be restrained and enjoined permanently during the pendency of this action and for the duration of the recourse, from receiving the payment of the 80% assessment to the Diocese for each of the plaintiffs' parishes, and for any other amount from the plaintiffs' parishes towards the settlement of the victims' abuse.
- (i) costs and disbursements of this action;
- (ii) such other and further relief as the Court deems just and proper.

Dated: July 8, 2025
Williamsville, New York

JAMES I. MYERS, PLLC

By: 
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VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) SS.

John Rozak, being duly sworn, deposes and says that he is a Plaintiff named in this action, that he has read the foregoing Complaint and knows the contents thereof; that the same is true to be best of his knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes them to be true.



John Rozak

Subscribed and sworn to before
me this 8th day of July, 3035.



Notary Public

