

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

Index No.: _____/19

BRIAN TOALE and CHARLES BYRNE,

**Plaintiffs designate
NEW YORK COUNTY
as place of trial.**

Plaintiffs,

-against -

**The basis of venue is
Plaintiff's residence
address: 201 East 17th
Street, 7G, New York, NY
10003**

**DIOCESE OF ROCKVILLE CENTER and
CHAMINADE HIGH SCHOOL,**

Defendants.

SUMMONS

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 your failure to appear or answer, judgement will be taken for the relief demanded herein.

**A COPY OF THIS SUMMONS WAS FILED WITH THE CLERK OF THE COURT,
NEW YORK COUNTY ON _____ IN COMPLIANCE WITH CPLR §§305(a)
AND 306(a).**

Dated: New York, New York
August 14, 2019

MERSON LAW, PLLC

By: Jordan Merson
Jordan K. Merson
Attorneys for Plaintiff
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

TO:
DIOCESE OF ROCKVILLE CENTER
50 N Park Ave,
Rockville Centre, NY 11571

CHAMINADE HIGH SCHOOL
340 Jackson Ave,
Mineola, NY 11501

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

Index No.: _____/19

-----X
BRIAN TOALE and CHARLES BYRNE,

Plaintiffs,

-against -

**VERIFIED
COMPLAINT**

**DIOCESE OF ROCKVILLE CENTER and
CHAMINADE HIGH SCHOOL,**

Defendants.

-----X
Plaintiff(s), above named, complaining of the defendants, by **MERSON LAW,
PLLC.**, respectfully allege(s):

NATURE OF THE CLAIM

1. This is a case of plaintiffs Brian Toale and Charles Byrne who were sexually abused as children by Frank Lind (“Lind”) at and of Chaminade High School (“Chaminade”) and Diocese of Rockville Centre (“Diocese”).
2. Lind was an agent, servant and/or employee of Chaminade which operated under the exclusive control of the Diocese. Lind was known among the community and the children as a sexual predator.
3. Despite the Diocese and/or Chaminade’s knowledge that Lind sexually abused children and/or had the propensity to sexually abuse children, the Diocese and/or Chaminade allowed Lind unfettered access to children including on school premises without proper supervision.
4. In approximately 1970 and continuing until 1971, Lind, while under the scope of employment with the Diocese and/or Chaminade and while acting on behalf of the

Diocese and/or Chaminade , would sexually abuse Mr. Toale, then between sixteen and seventeen years old, by manipulating him into being along with him so that he could touch Mr. Toale's genitals, force Mr. Toale to manually stimulate his penis, force Mr. Toale to engage in oral sex, and otherwise sexually abuse him.

5. In approximately 1972 and continuing until 1973, Lind, while under the scope of employment with the Diocese and/or Chaminade and while acting on behalf of the Diocese and/or Chaminade, would sexually abuse Mr. Byrne, then between sixteen and seventeen years old, by manipulating him into being alone with him so that he could force him to undress, photograph him, masturbate in front of him and otherwise sexually abuse him.

6. The sexual abuse of both Mr. Toale and Mr. Byrne occurred in Chaminade's Radio Club room, Lind's office and other venues.

7. Plaintiffs bring this lawsuit to recover for the emotional and physical suffering he endured because of the negligence of the Diocese of Rockville Centre and/or Chaminade High School and to make sure no other child is forced to suffer the abuse and physical and mental trauma they felt and continues to feel.

PARTIES

8. At all times herein mentioned defendant **DIOCESE OF ROCKVILLE CENTRE** was a not for profit corporation incorporated in the state of New York and by virtue of the laws of the State of New York.

9. At all times herein mentioned, defendant **DIOCESE OF ROCKVILLE CENTRE** was located at 50 N. Park Avenue, Rockville Centre, New York 11571.

10. At all times herein mentioned, Lind an agent, servant and/or employee operating under the direction and control of defendant **DIOCESE OF ROCKVILLE CENTRE**, and its agents, servants and/or employees.

11. At all times herein mentioned **CHAMINADE HIGH SCHOOL** was a not for profit corporation incorporated in the state of New York and by virtue of the laws of the State of New York.

12. At all times herein mentioned, defendant **CHAMINADE HIGH SCHOOL** was located at 340 Jackson Avenue, Mineola, New York 11501.

13. At all times herein mentioned, Lind was an agent, servant and/or employee operating under the direction and control of defendant **CHAMINADE HIGH SCHOOL**, and its agents, servants and/or employees.

14. At all times herein mentioned, defendant **DIOCESE OF ROCKVILLE CENTRE** and defendant **CHAMINADE HIGH SCHOOL** were agents, servants, employees and/or alter egos of each other.

FACTS OF THE CASE

15. Defendant **DIOCESE OF ROCKVILLE CENTRE** and/or defendant **CHAMINADE HIGH SCHOOL**'s negligence and recklessness caused Lind to have access to children, including on Diocese and/or Chaminade premises, despite their knowledge that Lind sexually abused children and/or had the propensity to sexually abuse children and therefore are responsible for the injuries that Plaintiffs incurred because but for Defendant **DIOCESE OF ROCKVILLE CENTRE** and/or **CHAMINADE HIGH SCHOOL**'s negligence, Plaintiffs would not have suffered the

mental and physical anguish inflicted by Lind. Defendants' gross negligence, reckless, wanton and/or willful conduct supports punitive liability.

16. Lind sexually abused Mr. Toale, Mr. Byrne and many other children of Chaminade in Mineola, New York. Nonetheless, defendant **DIOCESE OF ROCKVILLE CENTRE** and/or defendant **CHAMINADE HIGH SCHOOL** failed to remove Lind from his position or to take any steps to keep the dangerous predator away from children. In fact, the Diocese and/or Chaminade continued to allow, encourage and/or permit Lind to have unfettered access to children without proper supervision.

17. Lind was the communications supervisor at Chaminade and was the moderator of the Radio Club and CCTV Crew, both extracurricular activities that Mr. Toale participated in.

18. Lind was the communications supervisor at Chaminade and was the supervisor of the Audio and Visual Club which was an extracurricular activity that Mr. Byrne participated in.

19. The first time Lind abused Mr. Toale, Lind offered Mr. Toale to participate in a dare that he said no one else had been able to handle. Lind told Mr. Toale that it had to happen in the Radio Club room. Once there, Lind touched Mr. Toale's genitals. In order to keep Mr. Toale from revealing his sexually abusive behavior, Lind threatened public humiliation in front of his classmates and parents.

20. Lind began forcing Mr. Toale to accompany him to the back of the closet in the radio room and a crawl space beneath the school in order to sexually abuse him. Lind forced Mr. Toale to manually stimulate Lind's penis and engage in oral sex to the point of Lind ejaculating.

21. Eventually, Lind forced Mr. Toale to allow him to ejaculate in his mouth and forced him to swallow Lind's semen.

22. In order to further manipulate Mr. Toale into not revealing the sexual abuse, Lind routinely took polaroid photos of each stage of the abuse by threatening to show Mr. Toale's friends and family.

23. As a result of the actions of Lind, Mr. Toale felt and continues to feel ashamed, embarrassed and humiliated.

24. In approximately 1972 and continuing through approximately 1973, Lind would sexually abuse Mr. Byrne approximately ten times.

25. Lind would force Mr. Byrne to accompany him to his office, force him to undress so he could take his picture and masturbate with him.

26. In order to further manipulate Mr. Byrne into not revealing the sexual abuse, Lind routinely took polaroid photos of each stage of the abuse by threatening to show Mr. Byrne's friends and family.

27. As a result of the actions of Lind, Mr. Byrne felt and continues to feel ashamed, embarrassed and humiliated.

28. As such, Plaintiffs suffered catastrophic and lifelong injuries as a result of defendant **DIOCESE OF ROCKVILLE CENTRE** and/or defendant **CHAMINADE HIGH SCHOOL's** negligence in undertaking a duty, including but not limited to in locis parentis, in failing to protect the children of its parishes and of its community safe from Lind despite the Diocese and/or Chaminade having knowledge that Lind abused and/or sexually abused children and/or had the propensity to abuse and/or sexually abuse children, and/or allowing Lind to continue to have their positions of authority and

power with unfettered access to children, and Chaminade and the Diocese failed to adequately supervise Lind.

AS FOR A FIRST CAUSE OF ACTION FOR NEGLIGENCE

AS FOR THE DIOCESE OF ROCKVILLE CENTRE

(ON BEHALF OF BRIAN TOALE)

29. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 28. inclusive, with the same force and effect as if hereinafter set forth at length.

30. At all times mentioned herein, defendant **DIOCESE OF ROCKVILLE CENTRE** owed a duty of care, including but not limited to in locis parentis, to keep the young students of its school, parish and community safe from the abuse and/or sexual abuse by its agents, servants and or employees under its supervision and control, including on company premises, that ultimately befell the plaintiffs, and they had a duty to supervise Lind.

31. At all times mentioned herein, defendant **DIOCESE OF ROCKVILLE CENTRE** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiffs to be sexually assaulted.

32. As a result of the negligence of defendant **DIOCESE OF ROCKVILLE CENTRE** and/or its agents, servants and/or employees, plaintiffs were caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

33. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

34. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

36. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A SECOND CAUSE OF ACTION FOR NEGLIGENCE

AS FOR THE CHAMINADE HIGH SCHOOL

(ON BEHALF OF BRIAN TOALE)

37. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 36. inclusive, with the same force and effect as if hereinafter set forth at length.

38. At all times mentioned herein, defendant **CHAMINADE HIGH SCHOOL** owed a duty of care, including but not limited to in locis parentis, to keep the students of its school safe from the abuse and/or sexual abuse by its agents, servants and or employees under its supervision and control that ultimately befell the plaintiffs.

39. At all times mentioned herein, defendant **CHAMINADE HIGH SCHOOL** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiffs to be sexually assaulted.

40. As a result of the negligence of defendant **CHAMINADE HIGH SCHOOL** and/or its agents, servants and/or employees, plaintiffs were caused serious personal

injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

41. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

42. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

44. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A THIRD CAUSE OF ACTION FOR NEGLIGENT HIRING,

RETENTION AND SUPERVISION AS TO

DIOCESE OF ROCKVILLE CENTRE

(ON BEHALF OF BRIAN TOALE)

45. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 44., inclusive, with the same force and effect as if hereinafter set forth at length.

46. Defendant **DIOCESE OF ROCKVILLE CENTRE** had a duty to supervise and prevent known risks of harm to the children of its school by its agents, servants and/or employees.

47. Defendant was negligent in hiring, retaining and supervising their personnel, such as the Lind, who was careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of school

officials and other school supervisors who should have properly been supervising the agents, servants and/or employees and church officials to ensure the safety of the children of its school.

48. Defendant **DIOCESE OF ROCKVILLE CENTRE** knew or should have known Lind sexually abused and/or had the propensity to sexually abuse children, including plaintiffs, and did nothing to stop it.

49. As a result of such negligent hiring, supervising and retention, Plaintiffs were caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

50. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

51. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

53. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A FOURTH CAUSE OF ACTION FOR NEGLIGENT HIRING,

RETENTION AND SUPERVISION AS TO

CHAMINADE HIGH SCHOOL

(ON BEHALF OF BRIAN TOALE)

54. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 53., inclusive, with the same force and effect as if hereinafter set forth at length.

55. Defendant **CHAMINADE HIGH SCHOOL**, had a duty to supervise and prevent known risks of harm to the children and students of its school by its agents, servants and/or employees.

56. Defendant was negligent in hiring, retaining and supervising their personnel, such as Lind, who was careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of school officials and other school supervisors who should have properly been supervising the agents, servants and/or employees and church officials to ensure the safety of the children of its school.

57. Defendant **CHAMINADE HIGH SCHOOL** knew or should have known Lind sexually abused and/or had the propensity to sexually abuse children, including plaintiff, and did nothing to stop it.

58. As a result of such negligent hiring, supervising and retention, Plaintiffs were caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

59. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

60. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

62. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR THE FIFTH CAUSE OF ACTION FOR NEGLIGENT INFLICTION

OF EMOTIONAL DISTRESS AS TO

DIOCESE OF ROCKVILLE CENTRE

(ON BEHALF OF BRIAN TOALE)

63. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 62., inclusive, with the same force and effect as if herein set forth at length.

64. Defendant **DIOCESE OF ROCKVILLE CENTRE** and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Lind, the agent, servant and/or employee who sexually abused Plaintiffs, would and did proximately result in physical and emotional distress to Plaintiffs.

65. Defendant **DIOCESE OF ROCKVILLE CENTRE** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiffs.

66. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiffs being sexually abused by Lind.

67. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted in Lind sexually abusing Plaintiffs.

68. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

69. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

71. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR THE SIXTH CAUSE OF ACTION FOR NEGLIGENT INFLICTION

OF EMOTIONAL DISTRESS AS TO

CHAMINADE HIGH SCHOOL

(ON BEHALF OF BRIAN TOALE)

72. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 64., inclusive, with the same force and effect as if herein set forth at length.

73. Defendant **CHAMINADE HIGH SCHOOL** and its agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Lind, the agent, servant and/or employee who sexually abused Plaintiffs, would and did proximately result in physical and emotional distress to Plaintiffs.

74. Defendant **CHAMINADE HIGH SCHOOL** and its agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiffs.

75. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiffs being sexually abused by Lind.

76. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted in Lind sexually abusing Plaintiffs.

77. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

78. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

80. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A SEVENTH CAUSE OF ACTION FOR NEGLIGENCE

AS FOR THE DIOCESE OF ROCKVILLE CENTRE

(ON BEHALF OF CHARLES BYRNE)

81. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 80. inclusive, with the same force and effect as if hereinafter set forth at length.

82. At all times mentioned herein, defendant **DIOCESE OF ROCKVILLE CENTRE** owed a duty of care, including but not limited to in locis parentis, to keep the young students of its school, parish and community safe from the abuse and/or sexual abuse by its agents, servants and or employees under its supervision and control, including on company premises, that ultimately befell the plaintiffs, and they had a duty to supervise Lind.

83. At all times mentioned herein, defendant **DIOCESE OF ROCKVILLE CENTRE** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiffs to be sexually assaulted.

84. As a result of the negligence of defendant **DIOCESE OF ROCKVILLE CENTRE** and/or its agents, servants and/or employees, plaintiffs were caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

85. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

86. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

88. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR AN EIGHTH CAUSE OF ACTION FOR NEGLIGENCE

AS FOR THE CHAMINADE HIGH SCHOOL

(ON BEHALF OF CHARLES BYRNE)

89. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 88. inclusive, with the same force and effect as if hereinafter set forth at length.

90. At all times mentioned herein, defendant **CHAMINADE HIGH SCHOOL** owed a duty of care, including but not limited to in locis parentis, to keep the students of its school safe from the abuse and/or sexual abuse by its agents, servants and or employees under its supervision and control that ultimately befell the plaintiffs.

91. At all times mentioned herein, defendant **CHAMINADE HIGH SCHOOL** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiffs to be sexually assaulted.

92. As a result of the negligence of defendant **CHAMINADE HIGH SCHOOL** and/or its agents, servants and/or employees, plaintiffs were caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

93. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

94. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

96. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A NINTH CAUSE OF ACTION FOR NEGLIGENT HIRING,

RETENTION AND SUPERVISION AS TO

DIOCESE OF ROCKVILLE CENTRE

(ON BEHALF OF CHARLES BYRNE)

97. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 96., inclusive, with the same force and effect as if hereinafter set forth at length.

98. Defendant **DIOCESE OF ROCKVILLE CENTRE** had a duty to supervise and prevent known risks of harm to the children of its school by its agents, servants and/or employees.

99. Defendant was negligent in hiring, retaining and supervising their personnel, such as the Lind, who was careless, unskillful, negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of school officials and other school supervisors who should have properly been supervising the agents, servants and/or employees and church officials to ensure the safety of the children of its school.

100. Defendant **DIOCESE OF ROCKVILLE CENTRE** knew or should have known Lind sexually abused and/or had the propensity to sexually abuse children, including plaintiffs, and did nothing to stop it.

101. As a result of such negligent hiring, supervising and retention, Plaintiffs were caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

102. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

103. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

105. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A TENTH CAUSE OF ACTION FOR NEGLIGENT HIRING,

RETENTION AND SUPERVISION AS TO

CHAMINADE HIGH SCHOOL

(ON BEHALF OF CHARLES BYRNE)

106. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 105., inclusive, with the same force and effect as if hereinafter set forth at length.

107. Defendant **CHAMINADE HIGH SCHOOL**, had a duty to supervise and prevent known risks of harm to the children and students of its school by its agents, servants and/or employees.

108. Defendant was negligent in hiring, retaining and supervising their personnel, such as Lind, who was careless, unskillful, negligent, reckless and acted in a willful and

wanton manner in not possessing the requisite knowledge and skill of school officials and other school supervisors who should have properly been supervising the agents, servants and/or employees and church officials to ensure the safety of the children of its school.

109. Defendant **CHAMINADE HIGH SCHOOL** knew or should have known Lind sexually abused and/or had the propensity to sexually abuse children, including plaintiff, and did nothing to stop it.

110. As a result of such negligent hiring, supervising and retention, Plaintiffs were caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

111. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

112. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

114. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR THE ELEVENTH CAUSE OF ACTION FOR NEGLIGENT

INFLICTION OF EMOTIONAL DISTRESS AS TO

DIOCESE OF ROCKVILLE CENTRE

(ON BEHALF OF CHARLES BYRNE)

115. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 114., inclusive, with the same force and effect as if herein set forth at length.

116. Defendant **DIOCESE OF ROCKVILLE CENTRE** and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Lind, the agent, servant and/or employee who sexually abused Plaintiffs, would and did proximately result in physical and emotional distress to Plaintiffs.

117. Defendant **DIOCESE OF ROCKVILLE CENTRE** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiffs.

118. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiffs being sexually abused by Lind.

119. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted in Lind sexually abusing Plaintiffs.

120. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

121. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

123. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR THE TWELFTH CAUSE OF ACTION FOR NEGLIGENT

INFLICTION OF EMOTIONAL DISTRESS AS TO

CHAMINADE HIGH SCHOOL

(ON BEHALF OF CHARLES BYRNE)

124. Plaintiffs repeat, reiterate and reallege each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 123., inclusive, with the same force and effect as if herein set forth at length.

125. Defendant **CHAMINADE HIGH SCHOOL** and its agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Lind, the agent, servant and/or employee who sexually abused Plaintiffs, would and did proximately result in physical and emotional distress to Plaintiffs.

126. Defendant **CHAMINADE HIGH SCHOOL** and its agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiffs.

127. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiffs being sexually abused by Lind.

128. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted in Lind sexually abusing Plaintiffs.

129. By reason of the foregoing, Plaintiffs are entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.

130. By reason of the foregoing, Plaintiffs are entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.

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

132. This action falls within exceptions to Article 16 of the C.P.L.R.

WHEREFORE, plaintiffs demand judgement against defendants in such sum as a jury would find fair, adequate and just.

Dated: New York, New York
August 14, 2019

MERSON LAW, PLLC

By: 

Jordan K. Merson
Sarah R. Cantos
Attorney for Plaintiffs
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

Index No.: _____/2019

BRIAN TOALE and CHARLES BYRNE,

Plaintiffs,

-against -

AFFIDAVIT

DIOCESE OF ROCKVILLE CENTER and
CHAMINADE HIGH SCHOOL,

Defendants.

-----X

STATE OF NEW YORK) ss.:

COUNTY OF NEW YORK)

BRIAN TOALE, being duly sworn, depose and say:

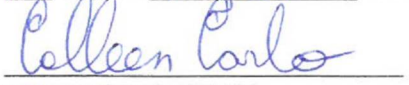
I am the plaintiff in the within action; I have read the foregoing Complaint and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

Dated: New York, New York
August 13, 2019


BRIAN TOALE

Sworn to before me this

13th day of August 2019



NOTARY PUBLIC

COLLEEN CARLO
Notary Public, State of New York
No. 01CA6205079
Qualified in Queens County
Commission Expires May 04, 2021

Index No.

Year 2019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

BRIAN TOALE and CHARLES BYRNE,

Plaintiffs,

- against -

DIOCESE OF ROCKVILLE CENTRE and CHAMINADE
HIGH SCHOOL,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

Merson Law, PLLC.

Attorneys for Plaintiff(s)

Office and Post Office Address, Telephone
150 East 58th Street 34th Fl.
New York, New York 10155
(212) 603-9100

To: All Parties
