

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

SHC-MG-3 DOE,

Plaintiff,

v.

BRYAN ROBERT MURPHY, f/k/a BROTHER BRYAN
ROBERT MURPHY, O.S.F.; THE ROMAN CATHOLIC
DIOCESE OF ROCKVILLE CENTRE, NEW YORK;
CONGREGATION OF THE RELIGIOUS BROTHERS OF THE
THIRD ORDER REGULAR OF ST. FRANCIS, a/k/a THE
FRANCISCAN BROTHERS OF BROOKLYN; THE FRANCISCAN
BROTHERS GENERALATE; FRANCISCAN BROTHERS, INC.;
and MOUNT ALVERNIA, INC.,

Defendants.

Index No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff SHC-MG-3 Doe, by her attorneys Simmons Hanly Conroy LLC and the Law Offices of Mitchell Garabedian, brings this action against Bryan Robert Murphy, formerly known as Brother Bryan Robert Murphy, O.S.F.; The Roman Catholic Diocese of Rockville Centre, New York; Congregation of the Religious Brothers of the Third Order Regular of St. Francis, also known as the Franciscan Brothers of Brooklyn; The Franciscan Brothers Generalate; Franciscan Brothers, Inc.; and Mount Alvernia, Inc., and alleges, on personal knowledge as to herself 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 Kings County pursuant to CPLR 503 in

that one or more Defendant resides in this County.

PARTIES

4. Plaintiff SHC-MG-3 Doe (“Plaintiff”) is an individual residing in New York County, New York.

5. Defendant Bryan Robert Murphy, formerly known as Brother Bryan Robert Murphy, O.S.F. (“Brother Murphy”) was, at all relevant times, a religious brother of the Congregation of the Religious Brothers of the Third Order Regular of St. Francis, also known as the Franciscan Brothers of Brooklyn, and an agent of The Franciscan Brothers Generalate and/or Franciscan Brothers, Inc. Brother Murphy was, at all relevant times, under the supervision, employ, direction, and/or control of The Roman Catholic Diocese of Rockville Centre, New York; Congregation of the Religious Brothers of the Third Order Regular of St. Francis, also known as The Franciscan Brothers of Brooklyn; The Franciscan Brothers Generalate; Franciscan Brothers, Inc.; and Mount Alvernia, Inc. Brother Murphy held the position of Director of Camp Alvernia in Centerport, New York, and retained this position at all relevant times described herein. Brother Murphy resides in Westchester County, New York.

6. Defendant The Roman Catholic Diocese of Rockville Centre, New York (“Diocese of Rockville Centre”) is a religious corporation organized pursuant to the Religious Corporations Law, with its principal office at 50 North Park Avenue in Rockville Centre, Nassau County, New York. The Diocese of Rockville Centre is a Roman Catholic diocese. At all relevant times, the Diocese of Rockville Centre created, oversaw, managed, supervised, controlled, directed and/or operated various institutions of the Diocese, including Camp Alvernia in Centerport, New York. At all relevant times, the Diocese of Rockville Centre oversaw, managed, supervised, controlled, and directed religious brothers assigned to work in institutions of the Diocese of Rockville Centre.

7. Defendant Congregation of the Religious Brothers of the Third Order Regular of St. Francis, also known as the Franciscan Brothers of Brooklyn (“Franciscan

Brothers of Brooklyn”) is and was at relevant times a religious order of the Roman Catholic Church with its principal office at 133 Remsen Street in Brooklyn, Kings County, New York. At all relevant times, Franciscan Brothers of Brooklyn oversaw, managed, supervised, controlled, directed and operated Camp Alvernia of Centerport, New York. At all relevant times, religious brothers of Franciscan Brothers of Brooklyn were agents, managers, directors, or employees of Camp Alvernia.

8. Defendant The Franciscan Brothers Generalate (“Franciscan Brothers Generalate”) is a New York not-for-profit corporation with its principal office at 133 Remsen Street in Brooklyn, Kings County, New York. At all relevant times, Franciscan Brothers Generalate oversaw, managed, supervised, controlled, directed and operated Camp Alvernia of Centerport, New York.

9. Defendant Franciscan Brothers, Inc. is a New York not-for-profit corporation with its principal office at 133 Remsen Street in Brooklyn, Kings County, New York. At all relevant times, Franciscan Brothers, Inc. oversaw, managed, supervised, controlled, directed and operated Camp Alvernia of Centerport, New York.

10. Defendant Mount Alvernia, Inc. (“Mount Alvernia”) is a New York not-for-profit corporation with its principal office at 105 Prospect Road, Centerport, Suffolk County, New York. Mount Alvernia was founded and/or incorporated by Defendants Franciscan Brothers of Brooklyn and/or Franciscan Brothers Generalate and/or Franciscan Brothers Inc. At all relevant times, Mount Alvernia oversaw, managed, supervised, controlled, directed and operated Camp Alvernia of Centerport, New York.

FACTS COMMON TO ALL CLAIMS

11. Plaintiff grew up in Huntington, New York when she was a minor. Plaintiff and her family were parishioners of the Diocese of Rockville Centre.

12. During the times relevant to the allegations set forth herein, Brother Murphy was assigned by Defendants Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and/or Mount Alvernia to work as the

Director of Camp Alvernia.

13. In or about 1995, when Plaintiff was approximately seventeen years of age, Plaintiff met Brother Murphy, the Director of Camp Alvernia. Brother Murphy hired Plaintiff to work for the summer as a counselor at Camp Alvernia.

14. Brother Murphy used his position at Camp Alvernia, when Plaintiff was a minor, to sexually assault, sexually abuse, and/or have sexual contact with the Plaintiff. Brother Murphy sexually assaulted, sexually abused, and/or had sexual contact with the Plaintiff on the Camp Alvernia property dozens of times while she was a minor, in or about the summer of 1995, in violation of the laws of the State of New York.

Supervisory Defendants' Responsibility for the Abuse Committed by Brother Murphy

15. At all times material hereto, Brother Murphy was under the management, supervision, employ, direction, and/or control of Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia.

16. Through his positions at, within, or for Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia, Brother Murphy was put in direct contact with Plaintiff.

17. Brother Murphy used his position at, within, or for, Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia and the implicit representations made by them about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to be alone with, and sexually touch, Plaintiff.

18. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia knew, and/or reasonably should have known, and/or knowingly condoned, and/or covered up the inappropriate and unlawful sexual activities of Brother Murphy, who sexually

abused Plaintiff.

19. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia had the responsibility to manage, supervise, control and/or direct religious brothers who served at Camp Alvernia, and specifically, had a duty not to aid pedophiles such as Brother Murphy by assigning, maintaining, and/or appointing them to positions with access to minors.

20. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia had a duty to the Plaintiff to ensure that Defendants did not offer opportunities for pedophiles to approach and assault vulnerable minors. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia knew and/or should have known that Brother Murphy used his position at Camp Alvernia to harm minors, including the Plaintiff, and to form an acquaintance that could be, and was, used to provide opportunities for sexual abuse.

Consequences of the Abuse

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

22. As a direct result of the Defendants' 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; has incurred and will continue to incur 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 Brother Murphy'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 she suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Intentional Infliction of Emotional Distress

23. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 22 as if fully set forth herein.

24. By engaging in the explicit sexual behavior and lewd and lascivious conduct described above, either Defendant Brother Murphy intended to inflict emotional distress upon Plaintiff, or Defendant Brother Murphy knew or should have known and recklessly disregarded the substantial likelihood that severe emotional distress would be the result of his conduct.

25. The conduct of Defendant Brother Murphy in engaging in explicit sexual behavior and lewd and lascivious conduct with a minor as described above is extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized society.

26. The mental distress and emotional injuries which Plaintiff suffered and will continue to suffer were and are lasting and severe.

27. As a direct and proximate result of Defendant Brother Murphy engaging in the explicit sexual behavior and lewd and lascivious conduct described above, Plaintiff suffered and will continue to suffer the injuries described herein.

28. By reason of the foregoing, Defendant Brother Murphy is liable to the Plaintiff for compensatory damages, and for punitive damages, together with interest and costs.

SECOND CAUSE OF ACTION

Negligent Hiring/Retention/Supervision/Direction

29. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 22 as if fully set forth herein.

30. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia at all

relevant times represented or otherwise indicated that minors present at Camp Alvernia, and any other minors in their custody or under their supervision, would be physically safe while in the presence of religious brothers assigned to Camp Alvernia. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia entered into an express and/or implied duty to provide that when Plaintiff was a minor and left in the presence of a religious brother assigned to, hired by, retained by, directed by, and/or under the supervision of the Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia, Plaintiff would be kept reasonably safe and that that religious brother would not sexually abuse Plaintiff.

31. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia owed a duty of care to all minors, including Plaintiff, who were likely to come in contact with Brother Murphy or under the supervision of Brother Murphy, to ensure that Brother Murphy 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.

32. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia knew or should have known of Brother Murphy's propensity for the conduct which caused Plaintiff's injuries prior to, or about the time of, the injuries' occurrence.

33. The sexual abuse of children by adults, including religious brothers, is a foreseeable result of negligence.

34. Brother Murphy sexually assaulted, sexually abused and/or had sexual contact with Plaintiff while he was a religious brother and agent of Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia.

35. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia negligently hired, retained, directed, and supervised Brother Murphy as they knew or should have known that Brother Murphy posed a threat of sexual abuse to minors.

36. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia were negligent in failing properly to supervise Brother Murphy.

37. At all times material hereto, Defendants Diocese of Rockville Centre's, Franciscan Brothers of Brooklyn's, Franciscan Brothers Generalate's, Franciscan Brothers, Inc.'s, and Mount Alvernia's actions were willful, wanton, malicious, negligent, reckless and/or outrageous in their disregard for the rights and safety of Plaintiff.

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

39. By reason of the foregoing, Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia are liable to the Plaintiff, jointly, severally, and/or in the alternative, for compensatory damages, and for punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION
Negligence/Gross Negligence

40. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 22 as if fully set forth herein.

41. At all times material hereto, with regard to the allegations contained herein, Brother Murphy was under the supervision, employ, direction and/or control of Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia.

42. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn,

Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia owed Plaintiff, at the relevant times a minor, a duty to protect her from Brother Murphy's sexual deviancy and the consequential damages, both prior to and/or subsequent to Brother Murphy's misconduct.

43. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia knew, or were negligent in not knowing, that Brother Murphy posed a threat of sexual abuse to minors.

44. The acts of Brother Murphy 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 Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia.

45. Defendants Diocese of Rockville Centre's, Franciscan Brothers of Brooklyn's, Franciscan Brothers Generalate's, Franciscan Brothers, Inc.'s, and Mount Alvernia's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damages set forth herein at length.

46. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia:

- 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 Brother Murphy;
- 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 their servants and/or agents and/or

employees, with instrumentalities under their 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.

47. At all times material hereto, Defendants Diocese of Rockville Centre's, Franciscan Brothers of Brooklyn's, Franciscan Brothers Generalate's, Franciscan Brothers, Inc.'s, and Mount Alvernia's actions were willful, wanton, malicious, negligent, reckless, and outrageous in their disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.

48. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.

49. By reason of the foregoing, Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia are liable to the Plaintiff, jointly, severally, and/or in the alternative, for compensatory damages, and for punitive damages, together with interest and costs.

FOURTH CAUSE OF ACTION

Breach of Fiduciary Duty

50. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 22 as if fully set forth herein.

51. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia. This relationship is based on the entrustment of the Plaintiff while she was a minor to the care and supervision of the Defendants as a minor camp counselor at Camp Alvernia. This entrustment of the Plaintiff to the care and supervision of Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia, while the Plaintiff was a minor, required

Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia to assume a fiduciary relationship and to act in the best interests of the Plaintiff and to protect Plaintiff due to her infancy and vulnerability.

52. Pursuant to their fiduciary relationship, Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia were entrusted with the well-being, care, and safety of Plaintiff.

53. Pursuant to their fiduciary relationship, Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia assumed a duty to act in the best interests of Plaintiff.

54. Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia breached their fiduciary duties to Plaintiff.

55. At all times material hereto, Defendants Diocese of Rockville Centre's, Franciscan Brothers of Brooklyn's, Franciscan Brothers Generalate's, Franciscan Brothers, Inc.'s, and Mount Alvernia's actions and/or inactions were willful, wanton, malicious, negligent, reckless, and outrageous in their disregard for the rights and safety of Plaintiff.

56. As a direct and proximate result of said conduct, Plaintiff has suffered injuries and damages described herein.

57. By reason of the foregoing, Defendants Diocese of Rockville Centre, Franciscan Brothers of Brooklyn, Franciscan Brothers Generalate, Franciscan Brothers, Inc., and Mount Alvernia are liable to the Plaintiff, jointly, severally and/or in the alternative, 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: August 25, 2020
New York, New York

Respectfully Submitted,

/s/ Paul J. Hanly, Jr.

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