

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

DAVID BOLAND,

Plaintiff,

v.

ROMAN CATHOLIC DIOCESE OF BROOKLYN, NEW YORK;
THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE,
NEW YORK; and THE PROVINCE OF THE UNITED STATES
OF THE BROTHERS OF THE SACRED HEART, INC. (A
DELAWARE CORPORATION), A/K/A, BROTHERS OF THE
SACRED HEART OF NEW ORLEANS, INC., A/K/A,
BROTHERS OF THE SACRED HEART FOUNDATION, INC.,
A/K/A, BROTHERS OF THE SACRED HEART OF NEW
JERSEY/NEW YORK, INC.,

Defendants.

Index No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff David Boland, by his attorneys Simmons Hanly Conroy LLC and the Law Offices of Mitchell Garabedian, brings this action against Roman Catholic Diocese of Brooklyn, New York; The Roman Catholic Diocese of Rockville Centre, New York; and The Province of the United States of the Brothers of the Sacred Heart, Inc. (a Delaware Corporation), a/k/a, Brothers of the Sacred Heart of New Orleans, Inc., a/k/a, Brothers of the Sacred Heart Foundation, Inc., a/k/a, Brothers of the Sacred Heart of New Jersey/New York, Inc., and alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that each Defendant resides in New York.
2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise

have jurisdiction.

3. Venue for this action is proper in the County of Kings pursuant to CPLR 503 in that one or more of the Defendants reside in this County and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this County.

PARTIES

4. Plaintiff David Boland ("Plaintiff") is an individual residing in St. John's, Florida.

5. Defendant Roman Catholic Diocese of Brooklyn, New York ("Diocese of Brooklyn") is a religious corporation organized pursuant to the New York Religious Corporations Law, with its principal office at 310 Prospect Park West, Brooklyn, Kings County, New York. The Diocese of Brooklyn is a Roman Catholic diocese. At all relevant times, the Diocese of Brooklyn created, oversaw, supervised, managed, controlled, directed, and operated parishes, churches, schools, and others institutions of the Diocese of Brooklyn, including, during relevant times, Coindre Hall, a Roman Catholic boarding school located in Huntington, Suffolk 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 New York Religious Corporations Law, with its principal office at 50 North Park Avenue, Rockville Centre, Nassau County, New York. The Diocese of Rockville Centre was formed in 1958. Upon formation of the Diocese of Rockville Centre, the Diocese of Rockville Centre created, oversaw, supervised, managed, controlled, directed, and operated parishes, churches, school, and other institutions in Nassau and Suffolk County, New York. Prior to the formation of the Diocese of Rockville Centre, Coindre Hall was under the supervision of the Diocese of Brooklyn. Liabilities of the Diocese of Brooklyn were transferred to, or assumed by, the Diocese of Rockville Centre following the formation of the Diocese of Rockville Centre.

7. Defendant The Province of the United States of the Brothers of the Sacred

Heart, Inc. (a Delaware Corporation), a/k/a, Brothers of the Sacred Heart of New Orleans, Inc., a/k/a, Brothers of the Sacred Heart Foundation, Inc., a/k/a, Brothers of the Sacred Heart of New Jersey/New York, Inc., (“Brothers of the Sacred Heart”) is a not-for-profit corporation authorized to conduct business in the State of New York with its principal office at 4600 Elysian Fields Avenue, New Orleans, Louisiana. At all relevant times, the Brothers of the Sacred Heart created, oversaw, supervised, managed, controlled, directed, operated, and staffed Coindre Hall.

FACTS COMMON TO ALL CLAIMS

8. Plaintiff attended Coindre Hall as a student from approximately 1949 when Plaintiff was about eleven years old to approximately 1952 when Plaintiff was about fourteen years old.

9. During times relevant to the allegations set forth herein, Brother Arnold Bakutis, S.C. (“Brother Arnold”) was assigned to or affiliated with Coindre Hall as a teacher and/or staff member by Defendants Diocese of Brooklyn and Brothers of the Sacred Heart. Brother Arnold died in 1980.

10. Through his positions at, within, or for Defendants Diocese of Brooklyn and Brothers of the Sacred Heart, Brother Arnold was put in direct contact with minor boys who attended Coindre Hall, including Plaintiff.

11. In approximately 1951 or 1952 when Plaintiff was about thirteen or fourteen years old, Brother Arnold isolated Plaintiff from other minor boys and staff members at Coindre Hall and brought Plaintiff alone with Brother Arnold to a private location in Coindre Hall.

12. Brother Arnold used this encounter, gained through his position at Coindre Hall which granted him access to Plaintiff, to sexually assault, sexually abuse, and/or have sexual contact with the Plaintiff in violation of the laws of the State of New York.

Defendants' Responsibility for the Abuse Committed by Brother Arnold

13. At all times material hereto, Brother Arnold was under the management, supervision, employ, direction and/or control of Defendants Diocese of Brooklyn and Brothers of the Sacred Heart.

14. Brother Arnold was under the management, supervision, employ, direction and/or control of Defendants Diocese of Brooklyn and Brothers of the Sacred Heart for such time as Brother Arnold was assigned to or affiliated with Coindre Hall.

15. Through his positions at, within, or for Defendants Diocese of Brooklyn and Brothers of the Sacred Heart, Brother Arnold was put in direct contact with Plaintiff.

16. Brother Arnold used his positions at, within, or for Defendants Diocese of Brooklyn and Brothers of the Sacred Heart and the implicit representations made by them about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create an opportunity to be alone with, and to sexually touch, Plaintiff.

17. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart had the duty to reasonably manage, supervise, control and/or direct clergy who served at Coindre Hall, and specifically, had a duty not to aid pedophiles such as Brother Arnold by assigning, maintaining, and/or appointing them to positions with access to minors.

18. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Brother Arnold, who sexually abused Plaintiff.

19. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart had a duty to the Plaintiff to properly supervise their agents to ensure that their agents did not use their positions with the Diocese of Brooklyn and Brothers of the Sacred Heart as a tool for grooming and assaulting vulnerable children. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart knew or should have known that Brother Arnold used his positions with the Diocese of Brooklyn and Brothers of the Sacred Heart to sexually

abuse minor children, including the Plaintiff.

Consequences of the Abuse

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

21. As a direct result of the Defendants Diocese of Brooklyn’s and Brothers of the Sacred Heart’s conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; 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 Arnold’s sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm he suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Negligent Hiring/Retention/Supervision/Direction

22. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

23. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Brother Arnold in his role as clergy, teacher, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Brother Arnold did not use his assigned positions to injure minors by sexual assault, sexual abuse, or sexual contact in violation of the laws of the State of New York.

24. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart at all relevant times represented that the schools and institutions of the Diocese of Brooklyn

and Brothers of the Sacred Heart were safe places for minors to attend, and that their agents were individuals to whom it was safe to entrust the care of minor children. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart entered into an express and/or implied duty to safely treat Plaintiff and assumed the duty to protect and care for him.

25. Brother Arnold sexually assaulted, sexually abused, and/or had sexual contact with Plaintiff when Plaintiff was a minor student at Coindre Hall.

26. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart negligently hired, retained, directed, and supervised Brother Arnold, though they knew or should have known that Brother Arnold posed a threat of sexual abuse to minors.

27. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart knew or should have known of Brother Arnold's propensity for the conduct which caused Plaintiff's injuries prior to, or at the time of, the injuries' occurrence.

28. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart were negligent in failing to properly supervise Brother Arnold.

29. The sexual abuse of children by adults, including clergy, is a foreseeable result of negligence.

30. At all times material hereto, Defendants Diocese of Brooklyn's and Brothers of the Sacred Heart's actions were willful, wanton, malicious, reckless, negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

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

32. Liabilities of Defendant Diocese of Brooklyn were transferred to, or assumed by, Defendant Diocese of Rockville Centre. As a result, Defendant Diocese of Rockville Centre is liable to the Plaintiff for the damages caused by Defendant Diocese of Brooklyn stated in this cause of action.

33. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly,

severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SECOND CAUSE OF ACTION
Negligence/Gross Negligence

34. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

35. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart knew, or were negligent in not knowing, that Brother Arnold posed a threat of sexual abuse to children.

36. The acts of Brother Arnold 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 Brooklyn and Brothers of the Sacred Heart.

37. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart owed Plaintiff, a minor at the relevant times of abuse, a duty to protect him from Brother Arnold's sexual deviancy and the consequential damages, both prior to and/or subsequent to Brother Arnold's misconduct.

38. Defendants Diocese of Brooklyn's and Brothers of the Sacred Heart's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damage set forth herein at length.

39. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart
- 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 Arnold;
 - 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, upon premises or 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.

40. At all times material hereto, with regard to the allegations contained herein, Brother Arnold was under the supervision, employ, direction and/or control of Defendants Diocese of Brooklyn and Brothers of the Sacred Heart.

41. At all times material hereto, Defendants Diocese of Brooklyn's and Brothers of the Sacred Heart's actions were willful, wanton, malicious, reckless, negligent and outrageous in their disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.

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

43. Liabilities of Defendant Diocese of Brooklyn were transferred to, or assumed by, Defendant Diocese of Rockville Centre. As a result, Defendant Diocese of Rockville Centre is liable to the Plaintiff for the damages caused by Defendant Diocese of Brooklyn stated in this cause of action.

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

**THIRD CAUSE OF ACTION
Breach of Fiduciary Duty**

45. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 21 as if fully set forth herein.

46. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendants Diocese of Brooklyn and Brothers of the Sacred Heart.

This relationship is based on the entrustment of the Plaintiff while he was a minor child to the care and supervision of the agent or servant of Defendants Diocese of Brooklyn and Brothers of the Sacred Heart. This entrustment of the Plaintiff to the care and supervision of the Defendants Diocese of Brooklyn and Brothers of the Sacred Heart, while the Plaintiff was a minor child, required the Diocese of Brooklyn and Brothers of the Sacred Heart to assume a fiduciary relationship and to act in the best interests of the Plaintiff, as well as to protect him while he was a minor and vulnerable child.

47. Pursuant to their fiduciary relationship, Defendants Diocese of Brooklyn and Brothers of the Sacred Heart were entrusted with the well-being, care, and safety of Plaintiff.

48. Pursuant to their fiduciary relationship, Defendants Diocese of Brooklyn and Brothers of the Sacred Heart assumed a duty to act in the best interests of Plaintiff.

49. Defendants Diocese of Brooklyn and Brothers of the Sacred Heart breached their fiduciary duty to Plaintiff.

50. At all times material hereto, the actions and/or inactions of Defendants Diocese of Brooklyn and Brothers of the Sacred Heart were willful, wanton, malicious, reckless, negligent and outrageous in their disregard for the rights and safety of Plaintiff.

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

52. Liabilities of Defendant Diocese of Brooklyn were transferred to, or assumed by, Defendant Diocese of Rockville Centre. As a result, Defendant Diocese of Rockville Centre is liable to the Plaintiff for the damages caused by Defendant Diocese of Brooklyn stated in this cause of action.

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

WHEREFORE Plaintiff, demands judgment against the Defendants on each cause of

action as follows:

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

JURY DEMAND

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

Dated: September 24, 2020
New York, New York

Respectfully Submitted,

/s/ Paul J. Hanly, Jr.

Paul J. Hanly, Jr.

phanly@simmonsfirm.com

Jayne Conroy

jconroy@simmonsfirm.com

Andrea Bierstein

abierstein@simmonsfirm.com

SIMMONS HANLY CONROY LLC

112 Madison Avenue

New York, NY 10016

(212) 784-6401 Telephone

(212) 213-5949 Facsimile

Attorneys for Plaintiff

Of counsel:

Mitchell Garabedian

mgarabedian@garabedianlaw.com

William H. Gordon

wgordon@garabedianlaw.com

LAW OFFICES OF MITCHELL GARABEDIAN

100 State Street, 6th Floor

Boston, MA 02109

Phone: (617) 523-6250