

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

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SUMMONS

Plaintiff,

Index #:

against

ROMAN CATHOLIC ARCHDIOCESE OF  
NEW YORK; THE CHURCH OF OUR  
LADY HELP OF CHRISTIANS, a/k/a OUR  
LADY HELP OF CHRISTIANS CHURCH,  
a/k/a OUR LADY HELP OF CHRISTIANS  
PARISH, a/k/a OUR LADY HELP OF  
CHRISTIANS; OUR LADY HELP OF  
CHRISTIANS SCHOOL, a/k/a THE  
CHURCH OF OUR LADY HELP OF  
CHRISTIANS SCHOOL, a/k/a OUR LADY  
HELP OF CHRISTIANS PARISH SCHOOL;  
and THE CATHOLIC SCHOOL REGION  
OF STATEN ISLAND; and DOES 1-10,

Defendants.

\_\_\_\_\_

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint of the Plaintiff herein and to serve a copy of your answer on the Plaintiff at the address indicated below within 20 days after service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the Summons is not delivered to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint.

July 29, 2021

*Daniel Lapinski*

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

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[REDACTED]

Index No.

Plaintiff,

COMPLAINT

against

ROMAN CATHOLIC ARCHDIOCESE OF  
NEW YORK; THE CHURCH OF OUR  
LADY HELP OF CHRISTIANS, a/k/a OUR  
LADY HELP OF CHRISTIANS CHURCH,  
a/k/a OUR LADY HELP OF CHRISTIANS  
PARISH, a/k/a OUR LADY HELP OF  
CHRISTIANS; OUR LADY HELP OF  
CHRISTIANS SCHOOL, a/k/a THE  
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CHRISTIANS SCHOOL, a/k/a OUR LADY  
HELP OF CHRISTIANS PARISH SCHOOL;  
and THE CATHOLIC SCHOOL REGION  
OF STATEN ISLAND; and DOES 1-10,

Defendants.

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[REDACTED] by and through his attorneys, MOTLEY RICE LLC and NYE  
STIRLING HALE & MILLER, LLP, as and for his Complaint in this matter against Defendants  
ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK; THE CHURCH OF OUR LADY  
HELP OF CHRISTIANS, a/k/a OUR LADY HELP OF CHRISTIANS CHURCH, a/k/a OUR  
LADY HELP OF CHRISTIANS PARISH, a/k/a OUR LADY HELP OF CHRISTIANS; OUR  
LADY HELP OF CHRISTIANS SCHOOL, a/k/a THE CHURCH OF OUR LADY HELP OF  
CHRISTIANS SCHOOL, a/k/a OUR LADY HELP OF CHRISTIANS PARISH SCHOOL; and  
THE CATHOLIC SCHOOL REGION OF STATEN ISLAND, and DOES 1-10, states and alleges  
as follows:

## PARTIES

1. Plaintiff is 58-years-old. Plaintiff was a resident of the State of New York during the period of childhood sexual abuse alleged herein.

2. At all times material, Defendant Roman Catholic Archdiocese of New York (hereinafter “Archdiocese”) was and continues to be a non-profit religious corporation, which includes, but is not limited to, civil operations, decision making entities, and officials and employees, authorized to conduct business and conducting business in the State of New York, in the counties of Bronx, Dutchess, Manhattan, Orange, Putnam, Richmond, Rockland, Sullivan, Ulster, and Westchester. The Archdiocese’s principal place of business was and is New York, New York. Defendant Archdiocese functions as a business by engaging in numerous activities and/or revenue-producing activities, business, trade, commerce, furnishing of services, and soliciting money from its members in exchange for its services. Defendant Archdiocese’s actions and policies have tremendous impact and influence on the daily lives of individuals within the community, including Catholics and non-Catholics. Defendant Archdiocese has several programs which seek out the participation of children in Defendant Archdiocese’s activities. Defendant Archdiocese, through its officials, has control over those activities involving children. Defendant Archdiocese has the power to appoint, supervise, monitor, and fire each person working with children in Defendant Archdiocese’s organization. At all times material, the Cardinal of the Archdiocese of New York controlled, operated, and managed the affairs of the Archdiocese.

3. Defendant Church of Our Lady Help of Christians, a/k/a Our Lady Help of Christians Church, a/k/a Our Lady Help of Christians Parish, a/k/a Our Lady Help of Christians, (“Our Lady Help Church” or “Defendant Church”) is a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 7396 Amboy Road, Staten Island,

NY 10307, in Richmond County, New York. At all relevant times, Our Lady Help Church is and has been a Roman Catholic Church or parish within and under the authority of the Archdiocese of New York. At all relevant times, the Archdiocese of New York created, oversaw, managed, controlled, directed and operated Our Lady Help Church. Defendant Church is the church, parish, school, or other organization where the Perpetrator, Fr. Arthur (Arturo) Fernando, was assigned and/or in residence, and where Plaintiff and his family were members during the period of wrongful conduct. Our Lady Help Church was created and operated within the geographic boundaries of the Archdiocese, under the authority of the Archdiocese.

4. Defendant Our Lady Help of Christians School, a/k/a The Church of Our Lady Help of Christians School, a/k/a Our Lady Help of Christians Parish School, (“Our Lady Help School”) is a Roman Catholic elementary school located at 23 Summit Street, Staten Island, New York, within the Archdiocese of New York, with its principal office in Richmond County, New York. At all relevant times, the Archdiocese of New York and Our Lady Help Church created, oversaw, managed, controlled, directed and operated Our Lady Help School.

5. In or about 2011 some or all of the oversight, management, direction and operation of Our Lady Help School, including at least some of the assets and liabilities of Our Lady Help Church and Our Lady Help School was transferred to, or assumed by, Defendant The Catholic School Region of Staten Island, a purported not-for-profit educational corporation chartered by the New York State Education Department, with its principal office at 2820 Amboy Road, Staten Island, New York 10306 in Richmond County, New York.

6. Fr. Arthur (Arturo) N. Fernando (“Fernando” or “the Perpetrator”) was at all times relevant an ordained priest in the Roman Catholic Church. During the dates of abuse, Fernando was a practicing priest, with faculties from the Archdiocese, assigned to and/or in residence within

the geographic boundaries of the Archdiocese and/or Defendant Church, and was under the direct supervision, employ and/or control of the Archdiocese, Our Lady Help Church, Our Lady Help School, and/or DOES 1-10.

7. Defendant Does 1 through 10, inclusive, are individuals and/or business or corporate entities incorporated in and/or doing business in New York whose true names and capacities are unknown to Plaintiff who therefore sues such defendants by such fictitious names, and who will amend the Complaint to show the true names and capacities of each such Doe Defendant when ascertained. Each such Doe Defendant is legally responsible in some manner for the events, happenings and/or tortious and unlawful conduct that caused the injuries and damages alleged in the Complaint.

8. Fernando and/or each Defendant were and/or are the agent, subagent, volunteer, servant and/or employee of the Archdiocese, Our Lady Help Church, Our Lady Help School, The Catholic School Region of Staten Island, and/or DOES 1-10. Fernando and/or each Defendant was acting within the course and scope of his, her, or its authority as an agent, subagent, volunteer, servant and/or employee of Fernando, the Archdiocese, Our Lady Help Church, Our Lady Help School, The Catholic School Region of Staten Island, and/or DOES 1-10. Fernando, the Archdiocese, Our Lady Help Church, Our Lady Help School, The Catholic School Region of Staten Island, and/or DOES 1-10, and each of them, are individuals, corporations, partnerships, and other entities which engaged in, joined in, and conspired with the other wrongdoers in carrying out the tortious and unlawful activities described in this Complaint, and the Archdiocese, Our Lady Help Church, Our Lady Help School, The Catholic School Region of Staten Island, and/or each Defendant ratified the acts of Fernando, Archdiocese, Our Lady Help Church, Our Lady Help School, The Catholic School Region of Staten Island, and/or DOES 1-10.

**BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

9. At all times material, Fr. Fernando was a Roman Catholic priest employed by the Archdiocese of New York and in residence and/or assigned as associate pastor or parochial vicar by Defendants to Our Lady Help Church and Our Lady Help School. Fr. Fernando remained under the direct supervision, employ, and control of the Archdiocese, its Bishops, and its Cardinal, until sometime in the early to mid-1970s, when the Archdiocese transferred him to St. Pius V Church in Buena Park, California under the control of the Roman Catholic Diocese of Orange and/or the Roman Catholic Archdiocese of Los Angeles. At the time of the abuse suffered by Plaintiff, Fr. Fernando was also under the direct supervision, employ, and control of Defendants Our Lady Help Church and Our Lady Help School.

10. Defendants Archdiocese, Our Lady Help Church and Our Lady Help School placed Fr. Fernando in positions where he had access to and worked with children as an integral part of his work, including at parishes and Catholic schools.

**Fernando's Assignment History**

11. Plaintiff is informed and believes The Diocese of Colombo (Ceylon) ordained Fr. Fernando as a priest in 1937. After his ordination, his subsequent assignments included:

1938-44: St. Peter's College, Colombo, Sri Lanka

1945: St. Joseph's College, Columbo, Sri Lanka

1946-48: Holy Cross College, Kalutara, Sri Lanka

1948-54: St. Joseph's College, Columbo, Sri Lanka

1955-70: St. Peter's College, Colombo, Sri Lanka

1970-73: Our Lady Help of Christians Church, Staten Island, NY

1974-77: St. Pius V, Buena Park, CA

1977-79: Holy Family, Seal Beach, CA.

Fr. Fernando left the United States in approximately 1979 without ever facing criminal prosecution or being listed on any sex offender registry.

12. Since 1980, Fr. Fernando's status as a priest, his whereabouts, and whether he had access to children are unknown.

13. For decades, Defendants have frustrated law enforcement efforts to investigate and forward for prosecution Defendants' agents who have committed crimes against children. Time and again Defendants' failures to notify law enforcement have helped such criminals escape prosecution by concealing their crimes until the expiration of the applicable criminal statutes of limitation. In this case, after receiving repeated reports of Fernando's sexual abuse of children at Defendant Church, the Archdiocese did not report him to law enforcement, and instead allowed him to abuse more children at Defendant Church before finally transferring him to California where Fernando sexually abused more children. The end result of Defendants' conduct is predators such as Fernando and other clergy-perpetrators remained priests in good-standing (until their deaths) and/or remain unregistered as a sex-offenders, and unidentifiable to the public as sexual predators.

14. Plaintiff and his family came into contact with Fr. Fernando in his capacity as an agent and representative of Defendants. The Archdiocese allowed Fernando unfettered access to children throughout his ministry. Defendants, among other things, allowed Fernando to supervise children, work directly with the altar boys, to counsel young children in the rectory and his living quarters without their parents' present, and to engage in other activities with students at Defendant Church's school.



15. Plaintiff participated in youth activities and church activities at Our Lady Help Church and Our Lady Help School. In accord with the teachings, directives, and influence of Defendants, Plaintiff developed great admiration, trust, reverence, and respect for the Roman Catholic Church, including the Archdiocese of New York, Our Lady Help Church, Our Lady Help School, and their agents such as Fr. Fernando.

16. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on Defendants and Fr. Fernando.

17. Defendants had custody of Plaintiff and accepted entrustment of Plaintiff and had responsibility for Plaintiff and authority over Plaintiff.

18. Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents committed acts of childhood sexual abuse at Our Lady Help Church and Our Lady Help School, and at various locations around New York and in other states before, during, and after the time Plaintiff attended Our Lady Help Church and Our Lady Help School with his family. Defendants' practice of concealing the identities, propensities, and current assignments and/or residences of these perpetrators has enabled and empowered such men to sexually assault and/or continue to place at risk countless children around the various locations in New York where Defendants conduct their business. Defendants have greatly increased the danger to children by continuing to transfer perpetrators such as Fr. Fernando, after allegations of abuse arise, from parish to parish. Defendants' conduct evidences a policy of secrecy that has created a culture of hidden sexual abuse to which Plaintiff and countless other children have fallen victim. Fr. Fernando's history, as set forth below, is but one example of the threat to today's children posed both by such men, and by Defendants' continuing practices in managing them.

**Fr. Fernando Sexually Abuses Plaintiff**

19. Plaintiff was born and raised in Staten Island, New York, living with his mother, father and three younger brothers.

20. Plaintiff was raised in the Catholic faith. Plaintiff's parents were devout Catholics and his family attended church every Sunday for his entire childhood. Plaintiff's mother worked at St. Joseph by-the-Sea High School during part of Plaintiff's childhood, and his aunt was a nun in Ohio during the times relevant to this matter.

21. As an elementary school student, Plaintiff attended mass at school. Plaintiff believed that priests were the voice of God and that they could do no wrong. As devout Catholics, Plaintiff's parents reinforced these beliefs.

22. As soon as he was old enough, and with the encouragement of Our Lady Help School, Plaintiff began serving as an altar boy, and continued to do so for several years.

23. Plaintiff often served as an altar boy for Fernando. Fernando's assaults on the child began in connection with Plaintiff's service as an altar boy and were often connected to such service.

24. Fernando, with sinister motives, also ingratiated himself into Plaintiff's and other children's lives by attending Plaintiff's basketball games in Port Richmond at the Catholic Youth Organizations Center, and by socializing with Plaintiff and other children in the school yard and parking lot at Our Lady Help School.

25. Fernando attempted to position himself in the minds of Plaintiff and other children as cool and nice and, in particular, different from the tough priests and nuns at Our Lady Help School. Fernando made himself out to be a buddy to Plaintiff and other children.

26. Fernando hosted “tea parties” for Plaintiff and other children in the rectory at Our Lady Help Church. It was during one of these “parties”, most likely when Plaintiff was in fourth or fifth grade, that Fernando first abused Plaintiff. Near the refrigerator in the rectory, Fernando placed his hands on Plaintiff’s shoulder and proceeded to kiss the child. Fernando then put his hands in Plaintiff’s pants, touching the child’s buttocks and genitals. Plaintiff believes that the tea Fernando offered to him (and other children) contained some form of drug and recalls feeling woozy after Fernando’s “tea parties.” Plaintiff also believes that Fernando induced him to drink alcohol. Plaintiff did not question Fernando’s abuse, believing Fernando to be the voice of God.

27. Another time Fernando assaulted Plaintiff was also in a room in the rectory. Fernando was sitting in a metal chair watching the altar boys, including Plaintiff, get dressed after service. Once the other altar boys had left the room, Fernando approached Plaintiff from behind, placed his hand on Plaintiff’s knee, kissed Plaintiff and inserted his tongue into Plaintiff’s mouth, placed his hands down Plaintiff’s pants and fondled Plaintiff’s genitals. Fernando praised the child, telling him that he was a good kid.

28. These assaults at the rectory began a period of abuse lasting several years, until Fernando left Our Lady Help School and Our Lady Help Church. Because Plaintiff played sports and participated in other activities at Our Lady Help School, Fernando had regular access to the child. It seemed, to Plaintiff, as if Fernando would assault him almost every time he was in his presence, regularly kissing and fondling the child. In addition to abuse in the rectory like that described above, Fernando also abused Plaintiff in the walkway to the rectory, on the stage, and at other areas on the grounds of Our Lady Help Church and Our Lady Help School.

29. However, Fernando did not limit his abuse of Plaintiff to Our Lady Help Church and Our Lady Help School. Fernando appeared wherever Plaintiff and his friends spent time. He

would pick up Plaintiff, and sometimes other children, too, and would take Plaintiff to places where he could further abuse the child. In particular, Fernando abused Plaintiff in his car, by the Tottenville drydocks, and at the waterfront where there was a small garage or hangar.

30. Fernando even took Plaintiff and other children to an apartment in Manhattan, where he abused Plaintiff.

31. No one questioned Fernando being alone with Plaintiff, and there were no limits to where he could take Plaintiff to abuse him. Fernando exploited Plaintiff's parents' faith in the Catholic Church and its priests to obtain access to their son in circumstances that enabled Fernando to abuse Plaintiff. Fernando also exploited Plaintiff's mother's illness and Plaintiff's father's work obligations to build Plaintiff's emotional dependency on Fernando, a dependency he then used to manipulate the boy into submitting to the abuse.

32. In addition to the many instances and locations of Fernando's assaults of Plaintiff, the severity of his assaults increased over time. Fernando's abuse of Plaintiff began as kissing and fondling of Plaintiff's genitals, but quickly escalated to Fernando persuading Plaintiff to fondle Fernando's genitals, too. Fernando would tell Plaintiff that what they were doing was good, he would tell him "this is what God gave us this for."

33. Fernando's assaults then progressed to oral copulation of Plaintiff. Fernando orally copulated the child countless times, including to the point of ejaculation. Fernando told the child that it was "a cool thing to do" and that it was "what God put you on this earth for." This abuse left Plaintiff with horrific and vivid memories of the assaults committed by Fernando.

34. Fernando's abuse of the child only terminated once the Archdiocese transferred Fernando to California. Fernando, however, continued his abuse, abusing other children at subsequent assignments in California, as described below.

**Fr. Fernando Sexually Abuses Multiple Other Victims During His Assignment at Our Lady Help School and Our Lady Help Church and His Subsequent Assignments**

35. Fr. Fernando sexually abused countless children in both New York and California, and a likely even larger but as yet unknown number from his over thirty years as a priest in Sri Lanka.

36. Plaintiff's younger brother, [REDACTED], is also a victim of Fr. Fernando's sexual abuse.<sup>1</sup> [REDACTED] was also an altar boy at Our Lady Help Church and attended Our Lady Help School. Similar to Plaintiff, Fernando took advantage of the constant access Defendants provided Fernando to children at Our Lady Help Church and School to abuse the boy in the rectory at Our Lady Help School. Fernando's abuse of [REDACTED] began when [REDACTED] was approximately eight or nine years of age and continued on multiple occasions from approximately 1972 through approximately 1973.

37. A third known victim of Fernando was the adolescent son of another parish family. Shortly before the Archdiocese transferred Fernando to California, and during the period that Fernando was abusing Plaintiff, the family's father reported Fernando's sexual abuse of his child to Our Lady Help Church. In fact, the father threatened physical violence to Fernando, which was interrupted by another predator assigned to Our Lady, Monsignor Jeremiah Brennan.

38. In response to the reported abuse, Defendants did not report the abuse to the police or to any outside organization.

39. A fourth known victim of Fernando was a childhood friend of Plaintiff. Plaintiff's brother, [REDACTED], witnessed Fernando sexually assaulting this fourth known victim.

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<sup>1</sup> [REDACTED] previously filed a complaint in the Supreme Court of the State of New York, County of New York, alleging abuse by Father Fernando and his cause of action is currently pending, *John Michael Norman v. Archdiocese of New York, et al.*, Index No. 154012/2019.

40. Plaintiff also witnessed the incident, and subsequently told Monsignor Brennan. Thus, Brennan twice learned of Fernando's criminal conduct before Fernando's last instances of abuse of both [REDACTED] and could have saved both boys from further abuse. Instead, Brennan did not notify law enforcement, and Fernando continued to sexually abuse the brothers as well as other children, boys and girls, at the church and school.

41. Monsignor Brennan's lack of action in response to hearing that Fernando had assaulted a child is not surprising given that Brennan himself sexually assaulted Plaintiff's brother [REDACTED] over a period of approximately six months in approximately 1974. Instead of reporting Fernando to law enforcement, Brennan allowed Fernando continued access to children, including having "tea parties" for children from Our Lady Help. At other times he sexually abused children in the presence of other children.

42. Fernando also abused female schoolmates of Plaintiff. For example, Fernando assaulted [REDACTED] following a presentation he gave about Sri Lanka at the home of one of Plaintiff's schoolmates. As [REDACTED] was thanking Fernando before leaving, Fernando leaned down to [REDACTED], thanked her for coming, but then unexpectedly tightly embraced the girl. He then groped her breast and kissed her, forcing his tongue in her mouth.

43. Similarly, one afternoon, Fernando invited another young girl, [REDACTED] to come to the library in the rectory to try his special Ceylon tea. When they were alone, and after giving her the tea, Fernando asked her, "how do you thank someone when they give you something?" He then lowered his head as if to allow her to kiss him on the cheek, but when she did so he forcefully kissed [REDACTED]. Then, in a low, threatening, and terrifyingly angry voice, and with his hands forcefully holding her face, the priest told [REDACTED] three times to open her mouth. When [REDACTED] finally complied Fernando said, "meet my tongue and dance with it", and forced his

tongue into her mouth while gripping her face so she could not pull away. One of the parish employees, Mrs. Bridges, observed the assault and subsequently asked [REDACTED] "What did he do to you?" However, no report was made to law enforcement.

44. Despite at least two reports of Fernando's sexual abuse of children at Our Lady Help Church and Our Lady Help School, Fernando remained active in the Archdiocese and continued to have access to children at Our Lady Help Church and Our Lady Help School, including in circumstances that permitted him to continue to abuse children.

45. The Archdiocese eventually facilitated Fernando's transfer to St. Pius V Church in Buena Park, California, where he abused more children.

46. In 2004, the Archdiocese of Los Angeles included Fernando on a list of current and former priests who had been accused of sexual misconduct involving minors.

**Defendants' Failure to Oversee Fr. Fernando and to Respond to Reports of his Sexual Abuses of Children**

47. The Archdiocese, whose agents not only knew of but facilitated Fernando's abuse of other young children, never reported him to law enforcement, and instead concealed his crimes against children while not only allowing the priest to remain in ministry but promoting him to assignment locations without any warnings to his new church of the risk Fernando posed to children, thus facilitating his criminal conduct. As a direct result of the Archdiocese's enabling behavior and failure to properly supervise Fernando, Fernando subjected Plaintiff, Plaintiff's brother, others described herein, and undoubtedly countless other children, to the most horrific of abuses.

48. To this day, the Archdiocese has never admitted to the extensive history of abuse by Fernando of which it has been aware for nearly half a century.

49. Defendant Archdiocese holds its leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to its programs, marketing to youth and families, recruiting youth and families, and holding out the people that work in its programs as safe.

50. As a result, Defendants' leaders and agents have occupied positions of great trust, respect, and allegiance among members of the general public, including Plaintiff.

51. By placing Fr. Fernando in an assignment, Defendant Archdiocese, through its agents, affirmatively or implicitly represented to minor children, their families, and members of the general public that Fr. Fernando did not pose a threat to children.

52. By placing Fr. Fernando in an assignment, Defendant Archdiocese, through its agents, affirmatively or implicitly represented to minor children, their families, and members of the general public that Fr. Fernando did not have a history of molesting children.

53. By placing Fr. Fernando in an assignment, Defendant Archdiocese, through its agents, affirmatively or implicitly represented to minor children, their families, and members of the general public that Defendant Archdiocese did not know of Fr. Fernando's history of sexually abusing children.

54. By placing Fr. Fernando in an assignment, Defendant Archdiocese, through its agents, affirmatively or implicitly represented to minor children, their families, and members of the general public that Defendant Archdiocese did not know that Fr. Fernando was a danger to children.



55. The Archdiocese knew or should have known that employing child rapists like Fr. Fernando and giving them unchecked access to children and the public at large is an extremely risky practice and is likely to expose the public to the threat of criminal activity.

56. Defendant Archdiocese affirmatively concealed Fr. Fernando's history of sexual abuse from the public.

57. Defendant Archdiocese failed to warn the public of the risk posed by Fr. Fernando's access to children.

58. By placing Fr. Fernando in a position of trust and authority, the Archdiocese exposed the public, and Plaintiff in particular, to the risk of becoming a victim of a criminal sexual act.

59. Sexual abuse, by its very nature, is an act that is committed in secret and, as a result, if the public is unaware of the potential that it will encounter a child molester, the public cannot take steps to protect itself from potential criminal activity.

60. By keeping Fr. Fernando in a position of trust and authority (with ready access to children), the Archdiocese introduced the threat of criminal conduct into the public sphere.

61. In so doing, the Archdiocese created the opportunity and forum for Fr. Fernando to commit criminal acts against members of the public, including Plaintiff, thus impairing the public health, welfare, and safety.

62. The public has an inherent right to be free from activities that pose a risk to health, welfare, and safety.

63. Parents have an inherent and statutory right to protect their children from harm and to have access to information that would allow them to do so.

64. The Archdiocese has a duty to refrain from taking actions that it knows or should know would expose the public to impairment of its health, welfare, and safety, including introducing the threat of criminal activity into the public sphere.

65. Despite this duty, the Archdiocese has, for decades, adopted a policy and practice of secrecy, covering up criminal activity committed by clerics and religious within the Archdiocese. This practice continues to the present day and encompasses all times relevant to the instant complaint.

66. The failure to disclose the identities, histories, and information about sexually abusive clerics is unreasonable and knowingly or recklessly creates or maintains a condition which endangers the health, safety, and welfare of a considerable number of members of the public, including Plaintiff.

67. On April 26, 2019, Defendant Archdiocese publicly admitted that it knew of 120 priests who worked in the Archdiocese that had been credibly accused of sexual misconduct with minors. 59 of these priests died before the allegations against them became public and without facing any action from the Church or law enforcement. The Archdiocese identified neither Fernando nor Brennan as sexual predators.

68. Defendant Archdiocese continues to conceal important information about the priests on that list and the names and information about accused priests, not on the list, thus continuing to expose an unknowing public to the threat of criminal activity.

69. As a result, children are at risk of being sexually molested. Further, the public is placed under the mistaken belief that Defendant Archdiocese does not have undisclosed knowledge of clerics who present a danger to children.

70. Upon information and belief, prior to and since April 2019, Defendant Archdiocese failed to report multiple allegations of sexual abuse of children by its agents to the proper civil authorities. As a result, children in the local community are at risk of being sexually molested.

**COUNT 1: NEGLIGENCE**

71. Plaintiff incorporates all paragraphs of the Complaint as if fully set forth herein.

72. While Plaintiff was a member of Defendant Church, Fr. Fernando engaged in unpermitted, harmful, and offensive sexual conduct and contact with Plaintiff. Said conduct was undertaken after Defendants learned of the risk he posed to children, while Fr. Fernando was an employee, volunteer, representative, or agent of Defendants, and while in the course and scope of employment with Defendants, and/or was ratified by the actions of Defendants. Defendants' conduct was wanton and reckless and/or evidenced a conscious disregard for the rights and safety of Plaintiff and other children.

73. Prior to or during the abuse alleged above, Defendants knew, had reason to know, or were otherwise on notice of unlawful sexual conduct by Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents. Defendants failed to take reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents, including, but not limited to, preventing or avoiding placement of Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents in functions or environments in which contact with children was an inherent part of those functions or environments. Furthermore, at no time during the periods of time alleged did Defendants have in place a system or procedure to supervise and/or monitor employees, volunteers, representatives, or agents to ensure they did not molest or abuse minors in Defendants' care, including Plaintiff.

74. Defendants had a duty to protect the minor Plaintiff when he was entrusted to their care by Plaintiff's parents. Plaintiff's care, welfare, and/or physical custody was temporarily entrusted to the Defendants. The Defendants voluntarily accepted the entrusted care of Plaintiff. As such, the Defendants owed Plaintiff, a minor child, a special duty of care, in addition to a duty of ordinary care, and owed Plaintiff the higher duty of care that adults dealing with children owe to protect them from harm.

75. Defendants, by and through their agents, servants, and employees, knew or reasonably should have known of Fr. Fernando's and Defendants' other pedophilic and/or ephebophilic agents' dangerous and exploitive propensities and that they were unfit agents. It was foreseeable that if the Defendants did not adequately exercise or provide the duty of care owed to children in their care, including but not limited to Plaintiff, the children entrusted to the Defendants' care would be vulnerable to sexual abuse by Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents.

76. Defendants breached their duty of care to the minor Plaintiff by allowing Fr. Fernando to come into contact with the minor Plaintiff without supervision; by failing to adequately hire, supervise, or retain Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents who they permitted and enabled to have access to Plaintiff; by failing to investigate or otherwise confirm or deny such facts about Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents; by failing to tell or concealing from Plaintiff, Plaintiff's parents, guardians, or law enforcement officials that Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents, were or may have been sexually abusing minors; by failing to tell or concealing from Plaintiff's parents, guardians, or law enforcement officials that Plaintiff was or may have been sexually abused after Defendants knew or had reason to know that Fr.

Fernando may have sexually abused Plaintiff, thereby enabling Plaintiff to continue to be endangered and sexually abused, and/or creating the circumstance where Plaintiff was less likely to receive medical/mental health care and treatment, thus exacerbating the harm done to Plaintiff, and/or, in the case of Defendants, by holding out Fr. Fernando to the Plaintiff and his parents or guardians as being in good standing and trustworthy. Defendants further cloaked within the facade of normalcy Fr. Fernando's and Defendants' other pedophilic and/or ephebophilic agents' contact and/or actions with the Plaintiff and/or with other minors who were victims of Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents, and/or disguised the nature of the sexual abuse and contact. Finally, Defendants, through their conduct during and after the period of abuse, ratified Fr. Fernando's sexual abuse of Plaintiff. Defendants' ratification of Fr. Fernando's criminal conduct included repeatedly not disciplining or terminating them for their sexual misconduct towards minors.

77. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical injuries, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

**COUNT 2: NEGLIGENT SUPERVISION/FAILURE TO WARN**

78. Plaintiff incorporates all paragraphs of the Complaint as if fully set forth herein.

79. Defendants had a duty to provide reasonable supervision of Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents, and to use reasonable care in investigating Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents. Defendants also had a duty to provide adequate warning to Plaintiff, Plaintiff's family, and Defendants' minor church members, of Fr. Fernando's and Defendants' other pedophilic and/or ephebophilic agents' dangerous propensities and unfitness, particularly after the misconduct by Fr. Fernando they observed and/or were placed on notice of before Fr. Fernando abused Plaintiff.

80. Additionally, because Defendants knew or should have known of the heightened risk Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents posed to all children, Defendants had a heightened duty to provide reasonable supervision and protection to children with whom Defendants allowed Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents to have contact and/or custody and control.

81. Defendants, by and through their agents, servants, and employees, knew or reasonably should have known of Fr. Fernando's and Defendants' other pedophilic and/or ephebophilic agents' dangerous and exploitive propensities and that they were unfit agents. Each of the Defendants was in a special relationship with Fr. Fernando as they each allowed Fr. Fernando to have access to children after being put on notice of the sexual abuse risk they posed to children, especially to children such as Plaintiff who were likely to come into close contact with Fr. Fernando.

82. Despite this history and knowledge of Fr. Fernando's propensities, no Defendant ever warned anyone that he posed a risk to children. Each Defendant also employed Fr. Fernando in positions of trust, allowed them to work with children, or allowed them access to children on

their property, and knew that after leaving their property they would continue to hold such positions and work with children such as Plaintiff.

83. Defendants also knew that if they failed to provide children who had contact with Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents sufficient supervision and protection, those children would be vulnerable to sexual assaults by Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents. Despite such knowledge, Defendants negligently failed to supervise Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents in the position of trust and authority as Roman Catholic priests, deacons, religious brothers, nuns, religious instructors, youth group leaders, counselors, school administrators, school teachers, surrogate parents, spiritual mentors, emotional mentors, and/or other authority figures, where Fr. Fernando was able to commit the wrongful acts against Plaintiff.

84. Defendants failed to use reasonable care in investigating Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents. Defendants failed to provide adequate warning to Plaintiff and Plaintiff's family of Fr. Fernando's and Defendants' other pedophilic and/or ephebophilic agents' dangerous propensities and unfitness. Defendants also had a duty to disclose negative information regarding Fr. Fernando where they made an affirmative representation regarding Fr. Fernando's fitness for employment in positions that included working with children. Each of these failures by Defendants created a foreseeable and substantial risk of significant harm to a child such as Plaintiff who was likely to come into close contact with Fr. Fernando as church member, student, and/or counselee.

85. Defendants further failed to provide Plaintiff with adequate supervision and protection and failed to take reasonable measures to prevent future sexual abuse.

86. Finally, Defendants, through their conduct during and after the period of abuse, ratified Fr. Fernando's sexual abuse of Plaintiff. Defendants' ratification of Fr. Fernando's criminal conduct included repeatedly not disciplining or terminating him for his sexual misconduct towards minors.

87. Defendants' conduct alleged herein, and the implementation of Defendants' policy of secrecy in particular, illustrates wanton and reckless conduct and/or a conscious disregard for the rights and safety of Plaintiff and other children.

88. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical injuries, physical injuries, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling. As a proximate result of these injuries, Plaintiff has suffered general and special damages in an amount in excess of the jurisdictional minimum of this Court.

### **COUNT 3: NEGLIGENT HIRING/RETENTION**

89. Plaintiff incorporates all paragraphs of the Complaint as if fully set forth herein.

90. Defendants had a duty not to hire and/or retain Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents given their dangerous and exploitive propensities.

91. Defendants, by and through their agents, servants, and employees, knew or reasonably should have known of Fr. Fernando's and Defendants' other pedophilic and/or



ephebophilic agents' dangerous and exploitive propensities and/or that they were unfit agents. Despite such knowledge, Defendants negligently hired and/or retained Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents in the position of trust and authority as Roman Catholic priests, deacons, religious brothers, nuns, religious instructors, counselors, school administrators, schoolteachers, surrogate parents, spiritual mentors, emotional mentors, and/or other authority figures or employees, where they were able to commit the wrongful acts against Plaintiff. Defendants failed to use reasonable care in investigating Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents and failed to provide adequate warning to Plaintiff and Plaintiff's family of Fr. Fernando's and Defendants' other pedophilic and/or ephebophilic agents' dangerous propensities and unfitness. Defendants further failed to take reasonable measures to prevent future sexual abuse. Finally, Defendants, through their conduct during and after the period of abuse, ratified Fr. Fernando's sexual abuse of Plaintiff. Defendants' ratification of Fr. Fernando's criminal conduct included repeatedly not disciplining or terminating him for his sexual misconduct towards minors after Defendants received reports of his sexual misconduct.

92. Defendants' conduct alleged herein, and Defendants' implementation of their policy of secrecy in particular, illustrates wanton and reckless conduct and/or a conscious disregard for the rights and safety of Plaintiff and other children.

93. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical injuries, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity;

and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling. As a proximate result of these injuries, Plaintiff has suffered general and special damages in an amount in excess of the jurisdictional minimum of this Court.

**COUNT 4: FRAUD**

94. Plaintiff incorporates all paragraphs of the Complaint as if fully set forth herein.

95. Defendants knew and/or had reason to know of the sexual misconduct of Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents before the last instance of abuse of Plaintiff. Agents of Defendants also had custody and control of Plaintiff immediately before and during the instances of abuse and owed him the greater degree of care – including the duty to prevent harm caused by the criminal conduct of third parties – owed by childcare custodians to any child in their custody and control.

96. Defendants misrepresented, actively concealed and/or failed to disclose information relating to sexual misconduct and the criminal intentions of Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents as described herein, and Defendants continue to misrepresent, conceal, and/or fail to disclose information relating to sexual misconduct of Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents as described herein. Agents of Defendants learned that Fr. Fernando was sexually abusing children before the last instance of abuse but concealed that knowledge from Plaintiff and his family.

97. As a direct result of Defendants' fraud, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical injuries, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full

enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling. As a proximate result of these injuries, Plaintiff has suffered general and special damages in an amount in excess of the jurisdictional minimum of this Court.

98. In addition, when Plaintiff discovered the fraud of Defendants, and continuing thereafter, Plaintiff experienced recurrences of the above-described injuries. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff experienced extreme and severe mental and emotional distress that Plaintiff had been the victim of Defendants' fraud; that Plaintiff had not been able to help other minors being molested because of the fraud; and that Plaintiff had not been able because of the fraud to receive timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to suffer as a result of the molestations.

**COUNT 5: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

99. Plaintiff incorporates all paragraphs of the Complaint as if fully set forth herein.

100. Defendants' conduct was extreme and outrageous and was intentional and/or wanton and reckless with a conscious disregard for the rights and safety of Plaintiff and other children. Defendants knew or should have known Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents were spending time, and would continue to spend time in the future, in the company of and assaulting numerous children, including Plaintiff, around the County of Richmond and other locations. Defendants also knew or should have known Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents were high risks to all children as Defendants had received complaints and/or other notice of prior acts of misconduct by Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents. Given their knowledge of

prior misconduct by Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents, Defendants knew or should have known that every child exposed to Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents, including Plaintiff, was substantially certain to be assaulted by Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents. Defendants knew or should have known, and had the opportunity to learn of, the intentional and malicious conduct of Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents, and thereby ratified and joined in said conduct by failing to terminate, discharge, or at least discipline Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents after learning of their propensities, and/or by failing to warn anyone of Fr. Fernando's and Defendants' other pedophilic and/or ephebophilic agents propensities, and/or by failing to prevent them from having contact with children. The conduct of Defendants in confirming, concealing, and ratifying that conduct was done with knowledge that the emotional and physical distress of Plaintiff and other children exposed to these men would thereby increase, and was done with a wanton and reckless disregard of the consequences to Plaintiff and other children in their custody and control.

101. As a result of Defendants' conduct, Plaintiff experienced and continues to experience severe emotional distress resulting in bodily harm.

102. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical injuries, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment,

therapy, and counseling. Plaintiff continues to struggle with intense shame and guilt over the fact he fell victim to Fr. Fernando. As a proximate result of these injuries, Plaintiff has suffered general and special damages in an amount in excess of the jurisdictional minimum of this Court.

**COUNT 6: FRAUD AND DECEIT**

103. Plaintiff incorporates all paragraphs of the Complaint as if fully set forth herein.

104. Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents held themselves out to Plaintiff as religious instructors, counselors, surrogate parents, spiritual mentors, emotional mentors, youth group leaders and/or other authority figures. Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents represented to Plaintiff and/or Plaintiff's family that they would counsel and guide Plaintiff with his spiritual and/or emotional needs. These representations were made by Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents with the intent and for the purpose of inducing Plaintiff and Plaintiff's family to entrust the spiritual, emotional and physical well-being of Plaintiff with Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents.

105. Defendants knew and/or had reason to know of the sexual misconduct of Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents before the last instance of abuse of Plaintiff. Agents of Defendants also had custody and control of Plaintiff immediately before and during the instances of abuse and owed him the greater degree of care – including the duty to prevent harm caused by the criminal conduct of third parties – owed by childcare custodians to any child in their custody and control.

106. Fr. Fernando and Defendants' other pedophilic and/or ephebophilic agents misrepresented, concealed, or failed to disclose information relating to their true intentions to Plaintiff and Plaintiff's family when they entrusted Plaintiff to their care, which was to sexually

molest and abuse Plaintiff. Plaintiff justifiably relied upon Fr. Fernando's and Defendants' other pedophilic and/or ephebophilic agents' representations.

107. Defendants are vicariously liable for the fraud and deceit of Fr. Fernando and Defendants' other agents as Defendants subsequently ratified Fr. Fernando's sexual abuse of Plaintiff.

108. As a result of the above-described conduct, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical injuries, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling. As a proximate result of these injuries, Plaintiff has suffered general and special damages in an amount in excess of the jurisdictional minimum of this Court.

109. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff experienced recurrences of the above-described injuries. In addition, when Plaintiff finally discovered the fraud of Defendants, and continuing thereafter, Plaintiff experienced extreme and severe mental, physical, and emotional distress that Plaintiff had been the victim of Defendants' fraud; that Plaintiff had not been able to help other minors being molested because of the fraud; and that Plaintiff had not been able because of the fraud to receive timely medical treatment needed to deal with the problems Plaintiff had suffered and continues to suffer as a result of the molestations.

**PRAYER FOR RELIEF**

Based on the foregoing causes of action, Plaintiff prays judgment against Defendants in an amount that will fully and fairly compensate him for his injuries and damages, and for punitive damages, in an amount sufficient to deter others and punish Defendants, and for any other relief the Court deems appropriate. The amount of damages sought in this Complaint exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

In the interest of promoting public safety, Plaintiff requests an order requiring that Defendant Archdiocese of New York publicly release the names of all agents, including priests, accused of child molestation, each agent's history of abuse, each such agent's pattern of grooming and sexual behavior, and his last known address. This includes the release of Defendants' documents on the agents.

Plaintiff requests an order requiring that Defendant Archdiocese discontinue its current practice and policy of dealing with allegations of child sexual abuse by its agents secretly, and that it work with civil authorities to create, implement, and follow policies for dealing with such molesters that will better protect children and the general public from further harm.

**DEMAND IS HEREBY MADE FOR A TRIAL BY JURY.**

July 29, 2021

*Daniel Lapinski*

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