

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

C. EVAN MANDERSON,

SUMMONS

Plaintiff,

Index #:

against

Plaintiff designates Queens County as the
place of trial.

ROMAN CATHOLIC DIOCESE OF
BROOKLYN; CHURCH OF SAINT
FRANCIS DESALES, SAINT VIRGILIUS
ROMAN CATHOLIC CHURCH, FATHER
COLEMAN COSTELLO 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.

December 1, 2020

/s/ Daniel Lapinski

Daniel Lapinski (NY SBN 4041760)
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

C. EVAN MANDERSON,

Index No.

Plaintiff,

COMPLAINT

against

ROMAN CATHOLIC DIOCESE OF
BROOKLYN; CHURCH OF SAINT
FRANCIS DESALES, SAINT VIRGILIUS
ROMAN CATHOLIC CHURCH, FATHER
COLEMAN COSTELLO and DOES 1-10,

Defendants.

Plaintiff C. EVAN MANDERSON, 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 DIOCESE OF BROOKLYN; CHURCH OF SAINT FRANCIS DESALES, SAINT VIRGILIUS ROMAN CATHOLIC CHURCH, FATHER COLEMAN COSTELLO and DOES 1-10, states and alleges as follows:

PARTIES

1. At all times relevant herein, Plaintiff was a resident of the State of New York. Plaintiff lived in New York throughout his childhood, including during the period of childhood sexual abuse. Plaintiff is currently 63 years old.

2. At all times material, Defendant the Diocese of Brooklyn (hereinafter “Diocese”) 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 boroughs of Brooklyn and

Queens. The Diocese's principal place of business was and is 310 Prospect Park West, Brooklyn, NY 11215.

3. Defendant Diocese 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 Diocese's actions and policies have tremendous impact and influence on the daily lives of individuals within the community, including Catholics and non-Catholics. Defendant Diocese has several programs that seek out the participation of children in Defendant Diocese's activities. Defendant Diocese, through its officials, has control over those activities involving children. Defendant Diocese has the power to appoint, supervise, monitor, and fire each person working with children in Defendant Diocese's organization. At all times material, the Bishop of the Diocese of Brooklyn controlled, operated, and managed the affairs of the Diocese. The Diocese was created in approximately 1853. Later, the Diocese created a corporation called the Roman Catholic Diocese of Brooklyn, New York to conduct some of its business. The Diocese operates as both a corporate entity and as the organization known as the Diocese of Brooklyn. Both of these entities and all other affiliated entities controlled by the Bishop of the Diocese of Brooklyn are included in this complaint as the "Diocese."

4. Defendant Church of St. Francis de Sales is a Roman Catholic Church, parish and school located in Belle Harbor, New York. St. Francis de Sales is a church, parish, school or other organization where the Perpetrator, Fr. Coleman Costello, was assigned and/or in residence during at least some of the period of wrongful conduct. St. Francis de Sales was created and operated within the geographic boundaries of the Diocese, under the authority of the Diocese and/or the

Bishop. Defendant Diocese oversaw, managed, controlled, directed and operated Defendant St. Francis de Sales, including the school, St. Francis de Sales Catholic Academy.

5. Defendant St. Virgilius Roman Catholic Church is a church, parish, school or other organization located in Broad Channel, Queens County, New York. St. Virgilius is a church, parish, school, or other organization where the Perpetrator, Fr. Coleman Costello, was assigned and/or in residence during at least some of the period of wrongful conduct. St. Virgilius was created and operated within the geographic boundaries of the Diocese, under the authority of the Diocese and/or the Bishop.

6. Defendant Fr. Coleman Costello (“Costello” or “the Perpetrator”) was at all times relevant an ordained priest in the Roman Catholic Church. During the dates of abuse, Costello was a practicing priest, with faculties from the Diocese, assigned to and/or within the geographic boundaries of the Diocese and/or St. Francis de Sales, and/or St. Virgilius Roman Catholic Church, and was under the direct supervision, employ and/or control of the Diocese and/or St. Francis de Sales, and/or St. Virgilius Roman Catholic Church 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. Fr. Costello and/or each Defendant were and/or are the agent, subagent, volunteer, servant and/or employee of the Diocese and/or St. Francis de Sales, and/or St. Virgilius, and/or

DOES 1-10. Fr. Costello 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 Fr. Costello and/or the Diocese and/or St. Francis de Sales, and/or St. Virgilius, and/or DOES 1-10. Fr. Costello and/or the Diocese and/or St. Francis de Sales, and/or St. Virgilius, 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 the Complaint, and the Diocese and/or St. Francis de Sales, and/or St. Virgilius, and/or each Defendant ratified the acts of Fr. Costello and/or the Diocese and/or St. Francis de Sales, and/or St. Virgilius, and/or DOES 1-10.

JURISDICTION AND VENUE

9. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that the Defendants reside in the State of New York and the County of Queens.

10. 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.

11. Venue for this action is proper in the County of Queens pursuant to CPLR 503 in that one or more Defendants reside in this County and a substantial part of the events and omissions giving rise to the claim occurred in Queens County.

BACKGROUND FACTS APPLICABLE TO ALL COUNTS

12. At all times material, Fr. Coleman Costello was a Roman Catholic priest employed by the Diocese of Brooklyn. Fr. Costello has retired, but remains under the direct supervision, employ, and control of the Diocese and its Bishops. At the time of the abuse suffered by Plaintiff, Fr. Costello was also under the direct supervision, employ, and control of St. Francis de Sales and/or St. Virgilius.

13. Defendants Diocese, St. Francis de Sales and/or St. Virgilius placed Fr. Costello in positions where he had access to and worked with children as an integral part of his work, including at parishes, Catholic Charities programs such as Catholic Youth Organizations, recreation centers, schools, and in outreach to homeless and at-risk youth.

Costello's Assignment History

14. The Diocese ordained Fr. Costello as a priest in 1967. After his ordination and until his retirement, he served at numerous parishes in Defendant Diocese including, but not limited to:

St. Vincent de Paul, Williamsburg, NY (1967)

St. Anthony of Padua, Greenpoint, NY (1967-1969)

St. Francis de Sales in Belle Harbor, NY (1969-1972)

St. Virgilius in Broad Channel Queens Co., NY (1973-1980)

St. Saviour Church in Brooklyn, NY (1995-1996)

Sacred Heart of Jesus Church, Queens, NY (1998-2006)

St. Mel, Flushing, NY Queens (2007)

15. Fr. Costello has lived at the Bishop Mugavero residence since his retirement in 2008. Despite Defendants' knowledge of his propensities, he has not faced criminal prosecution or been listed on any sex offender registry.

16. For decades, Defendants have frustrated law enforcement efforts to investigate and forward for prosecution Defendants' agents who have committed crimes against children. Repeatedly, 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. The result of Defendants' conduct is predators such as Fr. Costello and other clergy-

perpetrators remained (until their deaths) and/or remain unregistered as sex-offenders and unidentifiable to the public as sexual predators.

17. Plaintiff came into contact with Fr. Costello in his capacity as an agent and representative of Defendants. The Diocese allowed Fr. Costello unfettered access to children beginning in his training to become a priest and continuing throughout his ministry. In his first assignments as a priest, Defendants, among other things, allowed him to supervise children participating in the Catholic Youth Organization, recreation centers, to work directly with at risk populations, including homeless youth, and to counsel young children without their parents present, and other activities.

18. Plaintiff had grown up in the Catholic Church, attending St. Francis de Sales Catholic Academy elementary school in third and fourth grade. Plaintiff later attended St. Agnes School for Boys in Sparkill, New York, from sixth through eighth grades. Plaintiff served as an altar boy at St. Agnes in seventh and eighth grades.

19. In the 9th grade, in and around the summer of 1971, Plaintiff had the misfortune of becoming homeless. It was in and around this time that Plaintiff met Fr. Costello at a recreation center in Rockaway Beach, NY, where Fr. Costello was running a Catholic outreach program for kids. 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 Diocese of Brooklyn and its agents such as Fr. Costello.

20. During and through these Catholic outreach programs for kids, Plaintiff, as a minor and vulnerable child, was dependent on Defendants and Fr. Costello.

21. Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents groomed Plaintiff and other children for abuse and/or committed acts of childhood sexual abuse at the

recreation center in Rockaway Beach, and/or St. Francis de Sales, and/or St. Virgilius, and/or at various locations around New York. By failing to report known or suspected abuse to the proper authorities, 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. By failing to report known or suspected abuse to the proper authorities, Defendants have greatly increased the danger to children by continuing to transfer perpetrators such as Fr. Costello, after allegations of abuse arise, from parish to parish while also allowing them to work with children. 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. Costello'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. Costello is Ordained as a Priest in the Diocese of New York in 1967

22. After Fr. Costello was ordained as a priest in 1967, his first assignments were as an assistant at St. Vincent de Paul in Williamsburg, NY, and then at St. Anthony of Padua in Greenpoint, NY from 1967-1969. From there, he was assigned to St. Francis de Sales from 1969-1972. At least part of his role at St. Francis de Sales involved leadership at a recreation center focused on outreach to youth through the Catholic Youth Organization and/or Catholic Charities of Brooklyn. Fr. Costello was then moved to St. Virgilius from 1973-1980. For a period in the 1980s, Fr. Costello was released from his Diocesan assignment, but he remained a priest. From 1995 to 1996, he was at St. Saviour Church in Brooklyn, NY. He was at Sacred Heart of Jesus Church, in Queens, NY from 1998-2006, and at St. Mel, Flushing, NY, Queens in 2007 before retiring in 2008 to the Bishop Mugavero Residence in Douglaston, NY.

Fr. Costello Sexually Abuses Plaintiff

23. Plaintiff was born in Staten Island, New York. He was abandoned at birth at the Catholic Charities building next door to St. Francis College. He was initially placed in foster care until his birth mother picked him up just before Kindergarten.

24. Plaintiff was raised in the Catholic faith. His mother and stepfather were Catholic, and Plaintiff completed his catechism studies so he could receive communion. Plaintiff had an uncle who was a Franciscan and an aunt who was a nun. Plaintiff believed priests were God's representatives and were to be trusted.

25. When Plaintiff was in third grade, he was again placed in foster care. He lived with a devout Catholic family in Rockaway Beach, NY. Plaintiff attended St. Francis de Sales Catholic School and he attended St. Francis de Sales Catholic Church along with his family. Plaintiff later attended St. Agnes home for boys for grades six to eight. He also served as an altar boy in seventh and eighth grades. In ninth grade, Plaintiff returned to live with his mother in Staten Island, but only for a short period until his mother threw him out of the house. Plaintiff was homeless from 1971-1974 when he was 13-17 years old. As a homeless youth, Plaintiff was in a particularly vulnerable position.

26. During the summer of 1971, shortly after he was kicked out of the house, Plaintiff met Fr. Costello. Fr. Costello's ministry included doing Catholic outreach for children by running a recreation center in Rockaway Beach, NY. One of Plaintiff's friends from St. Francis de Sales who knew Plaintiff had become homeless suggested Fr. Costello could help Plaintiff. Plaintiff went to the recreation center to speak with Fr. Costello. He told Fr. Costello that he was homeless. As a homeless youth, Plaintiff was uniquely vulnerable and incapable of protecting himself. Fr.

Costello recognized that Plaintiff was in a vulnerable position and, as a representative of Defendant Diocese and Defendant St. Francis de Sales, Fr. Costello took Plaintiff in.

27. Fr. Costello was warm and friendly. He assured Plaintiff that everything would be all right and gave Plaintiff a hug, an expression of human warmth that had become rare in the boy's life. Fr. Costello also took the starving boy for pizza at Harbor Pizzeria, and then brought him back to the recreation center. Fr. Costello assured Plaintiff he would get a good night's sleep that night. Fr. Costello then drove Plaintiff back to the rectory where Plaintiff slept on a cot in what he believed to be Fr. Costello's living quarters. Plaintiff felt safe and, because Fr. Costello was a priest, believed the man could be trusted.

28. Plaintiff stayed with Fr. Costello for several days. During Plaintiff's second night at the rectory, he met a younger priest at the dinner table. The younger priest looked concerned and shocked to see Plaintiff. Fr. Costello told the younger priest that he was trying to find Plaintiff a home. The following day, the young priest invited Plaintiff to go for a drive with him. During the ride, the young priest expressed concern about Fr. Costello's conduct with Plaintiff and extensively questioned Plaintiff about whether Fr. Costello had touched Plaintiff. Nothing inappropriate had occurred at that time, and Plaintiff was confused by the questions. He mentioned that Fr. Costello had given him a hug at the recreation center. The young priest made comments like, "I'm close if you need me."

29. When Plaintiff returned from the drive with the young priest, Fr. Costello seemed nervous and tense. He asked Plaintiff what the priest was saying and asked what Plaintiff and the priest talked about. Plaintiff told Fr. Costello that the priest asked many confusing questions. Fr. Costello put an arm around Plaintiff's shoulders and assured Plaintiff everything was ok. Although the younger priest knew Fr. Costello was grooming and/or sexually abusing Plaintiff, the priest

made no effort to ever follow up and check on Plaintiff's safety after their initial discussion, and made no effort to notify law enforcement.

30. Fr. Costello later arranged for Plaintiff to be admitted to an inpatient drug rehabilitation program, despite the boy not having a drug problem. Fr. Costello told Plaintiff to pretend he had a drug problem. After approximately three nights at the drug rehabilitation center, the people running the program called Fr. Costello to pick up Plaintiff because he did not have a drug problem. Fr. Costello was angry with Plaintiff for not keeping up the ruse. Fr. Costello told Plaintiff he would have to take care of himself for a little while. Plaintiff was on his own again, and would ride the train at night for warmth and a safe place to sleep. Before long, Plaintiff returned to the recreation center and apologized to Fr. Costello about being kicked out of the drug rehabilitation program. Fr. Costello, on behalf of Defendant Diocese and Defendant St. Francis de Sales, again took Plaintiff in. Fr. Costello let Plaintiff sleep in the back seat of his car that night. Fr. Costello's abuse of Plaintiff began the next day.

31. While Plaintiff and Fr. Costello were sitting in Fr. Costello's car, which was parked in the theater district, Fr. Costello leaned over and hugged plaintiff. Fr. Costello then pushed Plaintiff's face into Fr. Costello's lap. Fr. Costello rubbed the back of Plaintiff's head while forcing Plaintiff's head against his groin. Fr. Costello took his penis out of his pants and tried to induce Plaintiff to orally copulate him. Despite Plaintiff pulling away, Fr. Costello kept telling Plaintiff to "put your mouth on it," while forcing Plaintiff's head down onto his penis. Plaintiff ultimately stopped fighting against Fr. Costello and did as the priest had demanded. During this time, Fr. Costello also began touching Plaintiff's buttocks and genitals. When done, Fr. Costello gave Plaintiff \$5 and sent him away to get something to eat. Father Costello again told Plaintiff he would have to be on his own for a while, but told Plaintiff to call him if he was in need of assistance.

32. Plaintiff was 13 when the sexual abuse began. The sexual abuse continued over the next two years and ended when Plaintiff was 15 years old. Plaintiff was a vulnerable, homeless youth throughout this time. Fr. Costello promised to help and assist Plaintiff using the resources available to him through Defendant Diocese, Defendant St. Francis de Sales and, ultimately, Defendant St. Virgilius where Defendant Fr. Costello transferred in and around 1973, but would routinely sexually abuse Plaintiff before providing any assistance. Fr. Costello would direct and/or induce Plaintiff to perform oral sex on him. As the abuse evolved over time, Fr. Costello would also orally copulated Plaintiff. Fr. Costello was always trying to French kiss plaintiff. Usually, Fr. Costello would induce Plaintiff to orally copulate him. Eventually, in addition to oral copulation, Fr. Costello began to digitally penetrate Plaintiff as part of the abuse. Fr. Costello's abuse of Plaintiff occurred about twice a month for a period of two years.

33. Fr. Costello continued to be a priest within the Diocese of Brooklyn throughout this time, bringing Plaintiff to the recreation center on multiple occasions. Although retired, Fr. Costello remains in good standing with the Diocese.

34. As reflected by the questions of the younger priest who questioned Plaintiff about Fr. Costello, the Diocese was aware of the fact that Fr. Costello engaged in grooming behavior with Plaintiff. Additionally, the younger priest's questions reflect a prior knowledge and awareness that Fr. Costello had previously engaged in sexual abuse of children before Fr. Costello abused Plaintiff.

35. The Diocese, whose agents not only knew of but also facilitated Costello's abuse of children, never reported Fr. Costello to law enforcement but, instead, concealed the crimes against children. The Diocese did so while not only allowing the priest to remain in ministry, but also promoting him to assignment locations that further facilitated his tendencies to sexually abuse

children. The Diocese allowed Costello to perform his ministry in ways that gave him even more access to children, such as serving in multiple positions for the Catholic Youth Organization and providing him assignments of outreach to at-risk youth. As a direct result of the Diocese's enabling behavior and failure to properly supervise Costello, Costello subjected Plaintiff – and undoubtedly countless other children– to the most horrific of abuses, countless times.

36. Defendant Diocese holds its leaders and agents out as people of high morals, and as possessing immense power. Defendant Diocese teaches families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents. Defendant Diocese solicits 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 and trusted leaders.

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

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

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

40. By placing Fr. Costello in an assignment, Defendant Diocese, through its agents, affirmatively or implicitly represented to minor children, their families, and members of the public, which Defendant Diocese did not know of Fr. Costello's history of sexually abusing children.

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

42. The Diocese knew or should have known that employing child rapists like Fr. Costello 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.

43. Defendant Diocese affirmatively concealed Fr. Costello's history of sexual abuse from the public.

44. Defendant Diocese failed to warn the public of the risk posed by Fr. Costello's access to children.

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

46. 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.

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

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

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

50. Parents and families 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.

51. The Diocese 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.

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

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

54. On February 11, 2019, Defendant Diocese publicly admitted that it knew of 131 priests who worked in the Diocese that had been accused of sexual misconduct with minors. 77 of these priests died before the allegations against them became public and without facing any action from the Church or law enforcement.

55. Defendant Diocese 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.

56. As a result, Defendant Diocese's actions, children are at risk of being sexually molested. Further, the public has the mistaken belief that Defendant Diocese does not have undisclosed knowledge of clerics who present a danger to children.

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

**COUNT 1: NUISANCE (COMMON LAW AND
N.Y.S. SOCIAL SERVICES LAW §§ 411-428)**

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

59. The Defendants' actions and omissions, as described above, have interrupted or interfered with the health, safety and welfare of the public. Pursuant to Correction Law Article 6-C, the Sex Offender Registration Act, the public has the right to know sex offenders' names, all aliases used, dates of birth, sex, race, height, weight, eye color, driver's license number, home address and/or expected place of domicile, any internet accounts with internet access providers belonging to such offender and internet identifiers that such offender uses, so that the public can identify such men and take protective measures on behalf of their children. In furtherance of that right, New York Soc. Services §§ 411-428 mandate reporting to child protective services any suspected childhood sexual abuse. The public also has a compelling interest in knowing if a prominent and powerful institution has cloaked in secrecy decades of sexual abuse. *In re The Clergy Cases I*, 188 Cal.App.4th 1224, 1236 (2010) ("all citizens have a compelling interest in knowing if a prominent and powerful institution has cloaked in secrecy decades of sexual abuse.").

60. The negligence and/or deception and concealment by Defendants interferes with and causes harm to these rights that are common to the public by preventing Defendants' predatory agents from being criminally prosecuted, thereby obstructing the public's right to identify such men as registered sex offenders. Defendants' secretive conduct also interferes with and causes harm to the public's right to know Defendants have concealed decades of sexual abuse by Roman Catholic Church leaders.

61. Pursuant to NYS Social Services Law §413, school officials, which include but are not limited to teachers, guidance counselors, and school administrators, are required to report “when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child.”

62. As the organization that oversaw, managed, controlled, directed and operated St. Francis de Sales Catholic Academy, Defendant St. Francis de Sales was required to report when it had reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child.

63. As the organization that oversaw, managed, controlled, directed and operated St. Francis de Sales Catholic Academy, Defendant Diocese was required to report when it had reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child.

64. Through its agents and in their professional and official capacities, both Defendant Diocese and Defendant St. Francis de Sales had reasonable cause to suspect that Plaintiff was being abused or maltreated by Fr. Costello no later than the summer of 1971, when Plaintiff was questioned by a young priest while staying at St. Francis de Sales with Fr. Costello.

65. The failure of Defendants Diocese and St. Francis de Sales to report suspected abuse makes them civilly liable for the damage proximately caused to Plaintiff by such failure.

66. Defendants have created and exposed the public to these unsafe conditions continuously and on an ongoing basis since at least the time Fr. Costello first abused Plaintiff, and has continued to expose the public to the unabated threat until the present day.

67. Further, as a direct and proximate result of Defendants’ conduct, Plaintiff has suffered special and individualized harms separate and distinct from the harms suffered by the

public at large. As a homeless child, vulnerable and incapable of self-protection, Defendants' actions were especially injurious to Plaintiff's health as he was unaware of the danger posed by Fr. Costello and, because of Defendants' failure to disclose, Plaintiff was placed in the custody and control of Fr. Costello, an agent of Defendants, who subsequently sexually assaulted Plaintiff. The special injuries to Plaintiff are the sexual assaults by Fr. Costello that were caused and enabled by Defendants' deception and concealment of sexual abuse by church leaders.

68. The harm suffered by Plaintiff is the exact type of harm that one would expect to result from the Defendants' acts and omissions.

69. Defendants continue to conspire and engage and/or have conspired and engaged in efforts to: 1) conceal from the general public the sexual assaults committed by, the identities of, and the pedophilic/ephebophilic tendencies of Fr. Costello and the Diocese's other accused agents; and/or 2) attack the credibility of victims of the Diocese's agents; and/or 3) protect Fr. Costello and Defendants' other pedophilic/ephebophilic current and former agents from criminal prosecution and registration as sex offenders by concealing their crimes from law enforcement and other civil authorities; and/or 4) protect the Diocese's agents from criminal prosecution and registration as sex offenders by receiving reports or notice of misconduct by men such as Fr. Costello, but then transferring them to new assignments in unsuspecting communities without informing church members of the threat posed by such men; and/or 5) allow agents who the Diocese knows pose a threat to children to live freely in the community without informing the public.

70. The net result of the aforementioned activities is that Defendants have introduced the threat of criminal activity into the public sphere, disrupted and interfered with the public's statutory right to know the identities of sex offenders, and have thereby impaired the public's

health, safety and welfare. Children cannot be left unsupervised in any location where Defendants' agents are present, as the general public cannot trust Defendants to prohibit their pedophilic agents from supervising, caring for or having any contact with children, warn parents of the presence of the pedophilic agents of Defendants, identify their pedophilic agents, identify and/or report to law enforcement their agents accused of childhood sexual abuse. Defendants' policy of secrecy concerning their agents accused of childhood sexual abuse has prevented the criminal prosecution of such men, thus depriving the public of and causing harm to the public's right to identify and protect their children from sex offenders. That policy of secrecy also deprives the public of and causes harm to the right to identify Roman Catholic institutions that have cloaked in secrecy childhood sexual abuse by their agents.

71. The conduct of Defendants was especially injurious to Plaintiff's health, safety and welfare, as Plaintiff was vulnerable, incapable of self-protection, and sexually assaulted by Defendants' agent, Fr. Costello.

72. The conduct of Defendants was further especially injurious to Plaintiff's health, safety and welfare in that when Plaintiff discovered Defendants' conduct, Plaintiff experienced mental, emotional, and/or physical distress that he had been the victim of Defendants' conduct.

73. Plaintiff has suffered and/or continues to suffer special, particular and peculiar psychological and emotional harm and/or peculiar pecuniary harm, different in kind from the public, after learning of and experiencing Defendants' conduct.

74. The continuing public nuisance created by Defendants was and continues to be the proximate cause of the injuries and damages to the public and of Plaintiff's special injuries and damages as alleged herein.

75. In doing the aforementioned acts, Defendants acted negligently and recklessly and/or intentionally, maliciously and with conscious disregard for Plaintiff's rights.

76. Only Defendants know how many other of their predatory agents are, like Fr. Costello, roaming free in society as never convicted, unregistered, and unidentifiable sex offenders.

77. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer special injury in that he suffers 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 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.

78. As a further result of the above-described conduct by Defendants, Plaintiff further requests injunctive relief prohibiting Defendants from, among other things: allowing their pedophilic/ephebophilic agents to have any unsupervised contact with children; transferring their pedophilic/ephebophilic agents to communities whose citizens are unaware of the risk to children posed by said agents; failing/refusing to disclose to and/or concealing from the general public and/or law enforcement when Defendants have transferred a pedophilic/ephebophilic agent into their midst; failing/refusing to disclose to and/or concealing from law enforcement and/or the general public and/or potential employers, the identities and the criminal acts of their

pedophilic/ephebophilic agents; failing/refusing to disclose to and/or concealing from the public and/or law enforcement and/or potential employers, reports, complaints, accusations or allegations of acts of childhood sexual abuse committed by Defendants' current or former agents.

79. Defendants should be ordered to stop failing/refusing to disclose to and/or concealing and, instead, should be ordered to identify each and every one of their current and former agents who have been accused of childhood sexual abuse, the dates of the accusation(s), the date(s) of the alleged abuse, the location(s) of the alleged abuse, and the accused agents' assignment histories

COUNT 2: NEGLIGENCE

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

81. When Plaintiff began attending and sought help from Fr. Costello at the Recreation Center and Catholic Charities outreach run by the priest, Fr. Costello 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. Costello 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.

82. 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. Costello 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 by Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents, including, but not limited to, preventing

or avoiding placement of Fr. Costello 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.

83. Defendants had a duty to protect the minor Plaintiff when he was entrusted to their care. 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.

84. Defendants, by and through their agents, servants, and employees, knew or reasonably should have known of Fr. Costello'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. Costello and Defendants' other pedophilic and/or ephebophilic agents.

85. Defendants breached their duty of care to the minor Plaintiff by allowing Fr. Costello to come into contact with the minor Plaintiff without supervision; by failing to adequately hire, supervise or retain Fr. Costello 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. Costello and Defendants' other pedophilic and/or

ephebophilic agents; by failing to tell or concealing from Plaintiff, Plaintiff's guardians, or law enforcement officials that Fr. Costello 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 guardians or law enforcement officials that Plaintiff was or may have been sexually abused after Defendants knew or had reason to know that Fr. Costello 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. Costello to the Plaintiff and/or guardians as being in good standing and trustworthy. Defendants further cloaked within the facade of normalcy Fr. Costello'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. Costello 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. Costello's sexual abuse of Plaintiff. Defendants' ratification of Fr. Costello's criminal conduct included repeatedly not disciplining or terminating him for his sexual misconduct towards minors.

86. 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 3: NEGLIGENT SUPERVISION/FAILURE TO WARN

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

88. Defendants had a duty to provide reasonable supervision of Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents, and to use reasonable care in investigating Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents. Defendants' also had a duty to provide adequate warning to Plaintiff, Plaintiff's family, Defendants' minor church members, individuals who went to the recreation center and those who were the subject of Catholic Charities outreach efforts by Fr. Costello's and Defendants' other pedophilic and/or ephebophilic agents, particularly after the misconduct by Fr. Costello they observed and/or were placed on notice of before Fr. Costello abused Plaintiff.

89. Additionally, because Defendants knew or should have known of the heightened risk Fr. Costello 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. Costello and Defendants' other pedophilic and/or ephebophilic agents to have contact and/or custody and control.

90. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of Fr. Costello'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. Costello as they each allowed Fr. Costello to have access to children after being put on notice of the sexual abuse risk he posed to children, especially to children such as Plaintiff who were likely to come in close contact with Fr. Costello.

91. Despite the history and knowledge of Fr. Costello's propensities, no Defendant ever warned anyone that he posed a risk to children. Each Defendant also employed Fr. Costello in positions of trust, allowed him to work with children, or allowed him access to children on their property, and knew that after leaving their property he would continue to hold such positions and work with children such as Plaintiff.

92. Defendants also knew that if they failed to provide children who had contact with Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents sufficient supervision and protection, those children would be vulnerable to sexual assaults by Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents. Despite such knowledge, Defendants negligently failed to supervise Fr. Costello 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. Costello was able to commit the wrongful acts against Plaintiff.

93. Defendants failed to use reasonable care in investigating Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents. Defendants failed to provide adequate warning to Plaintiff and Plaintiff's family of Fr. Costello's and Defendants' other pedophilic and/or ephebophilic agents' dangerous propensities and unfitness. Defendants also had a duty to disclose negative information regarding Fr. Costello where they made an affirmative representation regarding Fr. Costello'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. Costello as church member, student and/or counselee.

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

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

96. 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.

97. 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: NEGLIGENT HIRING/RETENTION

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

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

100. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of Fr. Costello'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. Costello 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, school teachers, surrogate parents, spiritual mentors, emotional mentors, and/or other authority figures or employees, where they were able to commit the wrongful acts against Plaintiff.

101. Defendants failed to use reasonable care in investigating Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents and failed to provide adequate warning to Plaintiff of Fr. Costello'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. Costello's sexual abuse of Plaintiff. Defendants' ratification of Fr. Costello's criminal conduct included repeatedly not disciplining or terminating him for his sexual misconduct towards minors after Defendants received reports of his sexual misconduct.

102. 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.

103. 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 5: FRAUD

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

105. Defendants knew and/or had reason to know of the sexual misconduct of Fr. Costello 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. Defendants misrepresented, actively concealed and/or failed to disclose information relating to sexual misconduct and the criminal intentions of Fr. Costello 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. Costello and Defendants' other pedophilic and/or ephebophilic agents as described herein.

107. As early as the summer of 1971, before Plaintiff endured the sexual abuse of Fr. Costello, a young priest questioned Plaintiff's safety and welfare. At the time of questioning, the young priest was an agent of both Defendant St. Francis de Sales and Defendant Diocese. Despite

reasonable belief that Plaintiff may be in danger, neither the young priest, Defendant Diocese nor Defendant St. Francis de Sales took any steps to warn Plaintiff or the public of the danger. Instead, Defendant Diocese and Defendant St. Francis de Sales continued to hold Fr. Costello out as a representative of the Catholic Church and a trusted resource to the community, including Plaintiff. Defendants did so with full knowledge of the harm that could result from failing to disclose the dangers Fr. Costello presented to children, including Plaintiff.

108. In 1973, Defendant Diocese transferred Fr. Costello to Defendant St. Virgilius. Upon transfer, Defendant Diocese and Defendant St. Virgilius continued to cover up the fact it was reasonable to suspect that Fr. Costello would abuse children, including Plaintiff. At the time of transfer, Fr. Costello's file reflecting the knowledge of Defendant Diocese and Defendant St. Francis de Sales would have been passed along to Defendant St. Virgilius.

109. As a homeless child, vulnerable and incapable of self-protection, Plaintiff relied upon the representation by Defendant Diocese, Defendant St. Francis de Sales and, eventually, Defendant St. Virgilius Church that Fr. Costello was safe and could be trusted.

110. 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.

111. 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 6: BREACH OF FIDUCIARY AND/OR CONFIDENTIAL RELATIONSHIP

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

113. Because of Plaintiff's young age and his status as a homeless child, Plaintiff was uniquely vulnerable and incapable of self-protection. Recognizing this unique vulnerability, Fr. Costello sought Plaintiff out, and was empowered by and accepted Plaintiff's vulnerability.

114. Plaintiff's relationship with each Defendant was unique from the relationships that each Defendant had with other parishioners. Unlike other parishioners, Plaintiff was a homeless child. Further, unlike other parishioners, Defendant Diocese and Defendant St. Francis de Sales permitted Plaintiff to reside on church property during a period of homelessness. This unique relationship, and the fiduciary responsibilities that accompanied the relationship, carried over to the time that Fr. Costello served as a priest at St. Virgilius Church.

115. By holding Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents out as a qualified Roman Catholic priests, religious brothers, nuns, religious instructors, counselors, school administrators, school teachers, surrogate parents, spiritual mentors, emotional mentors, and/or other authority figures, by allowing Fr. Costello to have custody and control of

and/or contact with the Plaintiff, and by undertaking the religious and/or secular instruction and/or spiritual and/or emotional counseling and/or medical care of Plaintiff, Defendants entered into a fiduciary and/or confidential relationship with the minor Plaintiff, giving rise to a fiduciary duty.

116. Further, upon inviting Plaintiff to stay at and, in fact, permitting Plaintiff to stay at the parish, Defendant Diocese and Defendant St. Francis de Sales, through its agents, created a fiduciary relationship with Plaintiff. This fiduciary relationship continued throughout the time that Plaintiff was homeless as Fr. Costello, as a representative and agent of all Defendants, continued to offer care to and services for Plaintiff.

117. Having a fiduciary and/or confidential relationship giving rise to a fiduciary duty, Defendants had the duty to obtain and/or disclose information relating to sexual misconduct of Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents. Defendants breached that duty by failing to disclose their knowledge of the risk to children posed by Fr. Costello. 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.

118. Defendants misrepresented, actively concealed, or failed to disclose information relating to the sexual misconduct of Fr. Costello 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. Costello and Defendants' other pedophilic and/or ephebophilic agents as described herein. Agents of Defendants learned that Fr. Costello were sexually abusing Plaintiff before the last instance of abuse but concealed that knowledge from Plaintiff and his family.

119. As a direct result of Defendants' breach of their fiduciary duty, 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 the Court.

120. In addition, when Plaintiff discovered Defendants' breach of their fiduciary duty, and continuing thereafter, Plaintiff experienced recurrences of the above-described injuries. In addition, when Plaintiff finally discovered Defendants' breach of their fiduciary duty, and continuing thereafter, Plaintiff experienced extreme and severe mental and emotional distress that Plaintiff had been the victim of Defendants' breach; that Plaintiff had not been able to help other minors being molested; and that Plaintiff had not been able 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 7: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

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

122. Each Defendant owed a duty to Plaintiff to ensure his physical safety when in the custody of Defendants' agents or when present on Defendants' premises.

123. By failing to disclose their respective knowledge that Fr. Costello was likely to sexually assault Plaintiff, Defendants each breached their duty owed to Plaintiff.

The conduct of each Defendant 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. Costello and Defendants' other pedophilic and/or ephebophilic agents were spending time, and would continue to spend time, in the company of and assaulting numerous children, including Plaintiff, around the County of Queens and other locations. Defendants also knew or should have known Fr. Costello 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. Costello and Defendants' other pedophilic and/or ephebophilic agents. Given their knowledge of prior misconduct by Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents, Defendants knew or should have known that every child exposed to Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents, including Plaintiff, was substantially certain to be assaulted by Fr. Costello and Defendants' other pedophilic and/or ephebophilic agents.

124. Defendants knew or should have known, and had the opportunity to learn of, the intentional and malicious conduct of Fr. Costello 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. Costello and Defendants' other pedophilic and/or ephebophilic agents after learning of their propensities, and/or by failing to warn anyone of Fr. Costello'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.

125. Because of Defendants' conduct, Plaintiff experienced and continues to experience severe emotional distress resulting in bodily harm.

126. 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. Costello. 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.

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 that would otherwise have jurisdiction.

Defendants knew of the risk Fr. Coleman posed before he abused Plaintiff, as evidence by the fact the priest who was in residence with Coleman asked Plaintiff whether Coleman had

engaged in criminal conduct with Plaintiff before the first instance of abuse. In the interest of promoting public safety, Plaintiff requests an order requiring that Defendant Diocese of Brooklyn publicly release the names of all agents, including previously unidentified priests such as Coleman, 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 Diocese 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 public from further harm.

JURY DEMAND

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

December 1, 2020

/s/ Daniel Lapinski

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