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2018 SEP 10 AM 9:32

N. ANAYA
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Attorneys for Plaintiffs

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

JOHN ROE NO. 101

Plaintiff,

vs.

CATHOLIC FOREIGN MISSION
SOCIETY OF AMERICA, INC., aka
MARYKNOLL FATHERS AND BROTHERS;
ROMAN CATHOLIC CHURCH IN THE
STATE OF HAWAII, a not for
profit corporation; JOHN DOES
1-10; JANE DOES 1-10; DOE
CORPORATIONS 1-10; DOE
PARTNERSHIPS 1-10; DOE NON-
PROFIT ENTITIES 1-10; and DOE
GOVERNMENTAL ENTITIES 1-10,

Defendants.

CIVIL NO. 18-1-1411-09 JHA
(Non-Motor Vehicle Tort)

COMPLAINT; SUMMONS; DEMAND
FOR JURY TRIAL

COMPLAINT

I do hereby certify that this is a full, true, and
correct copy of the original on file in this office.

N. Anaya
Clerk, Circuit Court, First Circuit

Plaintiff John Roe No. 101, a fictitious name used to protect Plaintiff's privacy interests, alleges the following against Defendants CATHOLIC FOREIGN MISSION SOCIETY OF AMERICA, INC., aka MARYKNOLL FATHERS AND BROTHERS, and ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII, a Hawaii not for profit corporation:

PARTIES

- a. Plaintiff Roe No. 101 (hereinafter referred to as "Plaintiff") is an adult male who resides in the State of Hawaii. Plaintiff was a minor and resident of the State of Hawaii at the time of the sexual abuse alleged herein.
- b. At all times material to the Complaint, Defendant CATHOLIC FOREIGN MISSION SOCIETY OF AMERICA, INC., aka MARYKNOLL FATHERS AND BROTHERS (hereinafter "Maryknoll Fathers") was and continues to be a Roman Catholic religious mission of priests and brothers affiliated with the Roman Catholic Church, with its principal place of business at Maryknoll Society Center & Administrative Offices, Maryknoll, New York 10545-3605. The Maryknoll Fathers were the religious mission of priests of which Father James Jackson (hereinafter "Jackson") was a member. As a member of the Maryknoll Fathers, at all times relevant Jackson was an agent of the Maryknoll Fathers, representing them to the

community and parishioners such as Plaintiff, and subject to the control and discipline of the Maryknoll Fathers. Such control included but was not limited to choosing where Jackson was to live and work, what functions he could perform as a priest, in what manner he could hold himself out as a representative of the church, and deciding whether and how long he could work or function as a priest. As a member of the Maryknoll Fathers, Jackson was also dependent on the Maryknoll Fathers for his financial and spiritual well-being. At all times material, Jackson was an agent of and under the direct control and supervision of the Maryknoll Fathers.

- c. At all times material to the Complaint, Defendant ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII (hereinafter referred to as "Diocese") was and continues to be a diocese of the Roman Catholic Church and not for profit religious corporation, authorized to conduct business and conducting business in the State of Hawaii with its principal place of business at 1184 Bishop Street, City and County of Honolulu, State of Hawaii. At all times material, Jackson was an agent of and under the direct control and supervision of the Diocese.

d. Plaintiff has attempted to ascertain the names and identities of possible Defendants. JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10; DOE NON-PROFIT ENTITIES 1-10; and DOE GOVERNMENTAL ENTITIES 1-10 (hereinafter referred to as "Doe Defendants") are persons, corporations, partnerships, business entities, non-profit entities, and/or governmental entities who acted in a negligent, grossly negligent, wrongful or tortious manner which proximately caused or contributed to injuries and damages sustained by Plaintiff. Plaintiff has been unable to ascertain the names and identities of the above-named Doe Defendants from the investigation that has been conducted to date. Accordingly, Plaintiff has sued the unidentified Doe Defendants herein with fictitious names pursuant to Rule 17(d) of the Hawai'i Rules of Civil Procedure, and Plaintiff will substitute the true names, identities, capacities, acts and/or omissions of the Doe Defendants when the same are ascertained.

e. Plaintiff alleges upon information and belief, that the conduct of other defendants, presently unknown to Plaintiff, was or may have been a proximate or legal cause of the harm that Plaintiff has suffered as alleged herein.

the spiritual and emotional needs of children, including Plaintiff, entrusted to his care.

5. At all times material, Plaintiff was a parishioner at Sacred Heart Church in Honolulu where he came to know, admire, trust, revere, and respect Jackson as a person of great influence and persuasion and as an authority figure, priest, spiritual advisor, and counselor.
6. In approximately 1980 to 1981, Plaintiff was a parishioner at Sacred Heart Church and during that time Jackson was a priest at Sacred Heart Church.
7. Jackson, using his position of authority, trust, reverence, and control as a Roman Catholic priest, engaged in unpermitted, harmful, and offensive sexual contact upon the person of Plaintiff John Roe No. 101. Multiple incidents of sexual contact occurred between approximately 1980 and 1981. The sexual contact and/or acts constituted or would have constituted criminal offenses under Part V or VI of Chapter 707, Sections 707-730 to 707-759, Hawaii Revised Statutes.
8. Each and all of the Defendants were responsible for the care and well-being of the minor Plaintiff. Each and all of the Defendants owed a duty of care to Plaintiff. Each and all of the Defendants had responsibility or control

over the activities in which Plaintiff and Defendants were engaged.

9. Prior to Jackson's abuse of Plaintiff, Defendants knew or should have known about Jackson's inappropriate interactions with children and sexual abuse of children.
10. As early as 1959, Defendants were informed by Robert M. Browne, M.D., a psychiatrist, that Jackson had reported strong obsessive feelings to touch the genital areas of male teenagers.
11. In 1959, Dr. Robert Browne advised Defendants that Jackson needed weekly psychotherapy and that contact with teenage boys should be minimized.
12. Prior to Jackson's sexual abuse of Plaintiff, Defendants knew or should have known Jackson was a child molester and knew or should have known that Jackson was a danger to children.
13. Before Plaintiff was sexually abused by Jackson, Defendants knew or should have known material facts regarding Jackson's sexual misconduct, impulses, and behavior, but failed to act on that knowledge thereby increasing the likelihood that Plaintiff would be harmed. The Defendants' failure to act on that knowledge also contributed to Plaintiff's injuries and inability to: appreciate the abuse

and resulting injuries sustained; or obtain help for the abuse and injuries suffered.

14. Jackson's practice of sexually accessing and abusing children was known or should have been known to Defendants.
15. Defendants grossly negligently or recklessly believed that Jackson was fit to work with children and/or that any previous problems they had were fixed and cured; that Jackson would not sexually molest children and that Jackson would not injure children; and/or that Jackson would not hurt children.
16. The sexual abuse and exploitation of Plaintiff John Roe No. 101 reflected a greater pattern of conduct, cooperation and conspiracy by Jackson and all Defendants that occurred within the Diocese for multiple decades. At all times relevant, Plaintiff was entrusted to Defendants' care, custody, and control while Jackson was under the direct supervision, employ, and control of Defendants.
17. Defendants engaged in a pattern and practice of fraudulent conduct in order to conceal the criminal and harmful acts of their agents and employees. Defendants, by and through their agents, misrepresented and/or failed to present the facts of known sexual misconduct to victims, their families, students, the public and/or law enforcement

authorities in furtherance of a scheme to protect predatory priests and other clergy from criminal prosecution, to maintain or increase charitable contributions and/or avoid public scandal thereby creating and perpetuating a conspiracy of silence and/or misrepresentation.

18. Jackson had a long-standing pattern of abusing children and had previously been required by Defendants to receive therapy and/or counseling for this behavior. Defendants and their agents knew or should have known of Jackson's ongoing practice child sexual abuse at the time Plaintiff was abused by him.
19. On information and belief, before Jackson's abuse of Plaintiff, reports were made to the Defendants about his inappropriate sexual conduct towards minors providing Defendants with actual or constructive knowledge of Jackson's ongoing pattern and practice of abuse. Accordingly, Defendants knew or should have known about Jackson's sexual interactions with children.
20. Defendants allowed Jackson to have unsupervised and unlimited access to children at Sacred Heart Church and other locations in the Diocese of Honolulu.
21. Defendants did not inform any children, students, parishioners, or their parents, including Plaintiff or his

parents, that they knew or should have known that Jackson was a child molester. Defendants also did not tell any of the children, students, parishioners, or their parents, including Plaintiff or his parents, that they had or should have had information that Jackson had a pattern of grooming and molesting boys.

22. Before Plaintiff was sexually abused by Jackson, Defendants knew or should have known material facts regarding Jackson's sexual misconduct, impulses, and behavior, but failed to act on that knowledge thereby increasing the likelihood that Plaintiff would be harmed. Defendants' failure to act on that knowledge also contributed to Plaintiff's injuries and inability to: appreciate the abuse and resulting injuries sustained; or obtain help for the abuse and injuries suffered.

23. By holding Jackson out as a qualified priest, teacher, counselor, and/or spiritual advisor employed by Defendants, and by undertaking the instruction and spiritual and emotional guidance of the minor Plaintiff, Defendants entered into a special relationship with Plaintiff. As a result of Plaintiff being a minor, and by Defendants undertaking the care and guidance of the then vulnerable

Plaintiff, Defendants held a position of empowerment over Plaintiff.

24. Further, Defendants, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment.
25. Defendants and their agents and representatives held themselves out to parishioners, students and their parents, including Plaintiff, as counselors and instructors on matters that were spiritual, moral, and ethical. Accordingly, Plaintiff placed trust in Defendants so that Defendants gained superiority and influence over Plaintiff. Defendants, by maintaining and encouraging such a relationship with Plaintiff and preventing the then minor Plaintiff from effectively protecting himself, entered into a fiduciary relationship with Plaintiff.
26. This fiduciary relationships with Plaintiff established a duty of good faith and fair dealing and the duty to act with the highest degree of trust and confidence. This fiduciary relationship included the duty to warn, the duty to disclose, and the duty to protect children from sexual abuse and exploitation by Catholic employees whom Defendants promoted as being safe with children. Defendants' fiduciary relationships with Plaintiff were

based upon a justifiable trust by Plaintiff and superiority and influence by Defendants.

27. At all times material, by accepting custody of then minor Plaintiff, the Defendants accepted custody *in loco parentis*, as a parent, and owed Plaintiff the duty of full disclosure of all the information they had or should have had regarding Jackson's history of sexual misconduct.
28. Further, Defendants and their agents were in a specialized or superior position to receive and did receive specific information regarding misconduct by priests and other agents and employees that was of critical importance to the well-being, protection, care and treatment of innocent victims, including Plaintiff. This knowledge was not otherwise readily available. Defendants exercised their special or superior position to assume control of said knowledge and any response thereto.
29. Plaintiff, on the other hand, was in a subordinate position of weakness, vulnerability, and inequality and was lacking in such knowledge. Further, the ability of Plaintiff or his family to monitor the use or misuse of the power and authority of Defendants was compromised, inhibited or restricted by Defendants.

30. Defendants held their 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 worked in the programs as safe.
31. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risk that Jackson posed to Plaintiff, the risk of abuse in general in their programs and/or the risks that their facilities and activities posed to minor children.
32. Defendants owed Plaintiff a duty of reasonable care because they solicited youth and parents for participation in their youth programs; encouraged youth and parents to have the youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children; held their agents, including Jackson, out as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents,

including Jackson, to spend time with, interact with, and recruit children.

33. Defendants breached their fiduciary duties to Plaintiff by failing to act upon or by insufficiently acting upon or responding to, information obtained by virtue of their superior status, known only or secretly to them, that was indicative of a pattern of wrongful, unlawful or criminal behavior on their part.
34. Defendants also breached their duties to Plaintiff by failing to warn him and his family of the risk that Jackson posed and the risks of child sexual abuse by clerics. They also failed to warn him about any of the knowledge that Defendants had about child sexual abuse in general, and in their programs.
35. Defendants also breached their duties to Plaintiff by failing to report Jackson's abuse of children to the police and law enforcement.
36. Defendants breached these duties, as well as other duties, through inaction, manipulation, intimidation, evasion, intended deception, undue influence, and duress or otherwise, as more fully described and set forth elsewhere in this complaint, resulting in negative consequences to the welfare and well-being of Plaintiff.

37. Defendants knew or should have known that some of the leaders and people working at Catholic institutions within the Diocese were a danger to those in their care.
38. Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Catholic institutions within the Diocese were a danger to those in their care.
39. Defendants knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese.
40. Defendants knew or should have known that they had numerous agents who had sexually molested children. They knew or should have known that child molesters have a high rate of recidivism. They knew or should have known that there was a specific danger of child sex abuse for children participating in their youth programs.
41. Defendants were grossly negligent and made grossly negligent representations to Plaintiff and his family during each and every year of his minority.
42. By tradition, Roman Catholics and those within their custody and control, including Plaintiff, are taught to hold religious figures in the highest esteem as earthly representatives of God, and that religious figures, unlike

lay people, belong to a separate and higher state in life, which Defendants represent to be of divine origin and which they represent, entitles them to special privileges. For these and other reasons relating to the practices of the Church, religious figures and other persons in leadership positions in the Church have traditionally occupied positions of great trust, respect and allegiance among parents and youth, including Plaintiff.

43. By placing Jackson at Sacred Heart Church, Defendants, through their agents, affirmatively represented to minor children and their families at the parish, that Jackson did not have a history of molesting children; that Defendants did not know that Jackson had a history of molesting children; and that Defendants did not know that he posed a danger to children.
44. By allowing Jackson to remain in active ministry, Defendants, through their agents, made continuing affirmative representations to minor children and their families, including Plaintiff and his family, that Jackson did not have a history of molesting children, that Defendants did not know that Jackson had a history of molesting children, and that Defendants did not know that Jackson posed a danger to children.

45. Defendants, through their agents, made representations directly to Plaintiff and his family. Defendants knew or should have known that the representations made to Plaintiff's parents would influence Plaintiff and particularly that the representations would influence the amount and type of time spent alone with Jackson, Jackson's access to Plaintiff, and Jackson's ability to molest Plaintiff.
46. Defendants were in a specialized position where they had knowledge that Plaintiff did not. Defendants were in a position to have this knowledge because they were Jackson's employers and because the Defendants were responsible for him. Plaintiff, on the other hand, was a child. As a child, Plaintiff was not in the position to have information about Jackson's inappropriate tendencies towards children.
47. Had Plaintiff or his family known what Defendants knew or should have known about Jackson's sexual molestation of children before Plaintiff and Jackson's danger to children, Plaintiff would not have been sexually molested.
48. Despite having actual or constructive knowledge of Jackson's pedophilic propensities and/or previous instances of molestation of other children, Defendants

concealed the danger which Jackson and other offending priests, clerics, brothers, and/or consecrated members of religious communities presented by holding them out as in good standing, thus enabling offenders to retain their continued, unrestricted access to minor children.

49. As a result of his early instruction and indoctrination, Plaintiff was taught to rely upon, and did rely upon, the representations and teachings of Defendants including, but not limited to, representations regarding priests, clerics, brothers, and/or consecrated members of religious communities in general and Jackson in particular (including the representation that Jackson was a priest in good standing). Plaintiff also expected and believed that Defendants would not tolerate criminal misconduct that represented a known threat to children by priests, clerics, brothers, and/or consecrated members of religious communities. Accordingly, even after Jackson sexually molested him, Plaintiff assumed that he was somehow the guilty party, rather than Jackson.

50. Further, as a result of that early instruction and indoctrination, Plaintiff assumed that Jackson's sexual molestation of him was an isolated occurrence and that Defendants were unaware and uninvolved, regarding both the

criminal sexual conduct and the wide-ranging efforts to conceal that criminal conduct from Plaintiff and others.

51. The sexual abuse of Plaintiff and the circumstances under which the abuse occurred caused Plaintiff to develop confusion, various coping mechanisms and symptoms of psychological disorders, including post-traumatic stress disorder, anxiety, depression, repression and disassociation. As a result, Plaintiff formed a reasonable and rational fear that he would be disbelieved and was unable to fully perceive or know that 1) the conduct of Jackson was pervasive; 2) Defendants knew or had reason to know that Jackson was a pedophile prior to his abuse; 3) Defendants were responsible for the abuse; and 4) the injuries he suffered were the result of the abuse. Because Plaintiff's emotional and psychological injuries at times manifested themselves in ways seemingly unconnected to the sexual abuse by Jackson, Plaintiff was unable to perceive or know the existence or nature of his psychological and emotional injuries and the causal connection to the sexual abuse.

52. As a direct result of Defendants' conduct, Plaintiff has suffered and continues to suffer from injuries including, but not limited to: great pain of mind and body; severe and

permanent emotional distress; physical manifestations of emotional distress; psychological injuries, including post-traumatic stress disorder and depression; feelings of shame, embarrassment, and powerlessness; was prevented and will continue to be prevented from performing normal daily activities and obtaining the full enjoyment of life; will incur expenses for medical and psychological treatment, therapy and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity.

COUNT ONE

GROSS NEGLIGENCE AGAINST ALL DEFENDANTS

53. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.
54. Defendants assumed a duty to Plaintiff by:
- a. holding Jackson out to the public, including Plaintiff, as a competent and trustworthy employee, representative, priest, and counselor of high morals;
 - b. holding out his facilities, parishes and schools as safe environments for children;
 - c. taking and inviting children into their facilities;
 - d. entrusting children to the care of Jackson during church activities; and

- e. fostering an environment in which Plaintiff was inhibited from reporting the sexual abuses against him.
63. Defendants had a duty to exercise care in supervising Jackson in his assignments and failed to prevent the injuries sustained by Plaintiff as a result of the foreseeable misconduct of their employee, Jackson.
64. Defendants breached this duty by exposing Plaintiff to Jackson, an unfit agent with dangerous and exploitive propensities.
65. Defendants were grossly negligent in deeming Jackson fit agents for ministry, teaching, and employment and in continuing to employ Jackson in positions of trust and authority as a priest, teacher, counselor, and/or spiritual advisor without proper or adequate supervision, thereby providing him the opportunity to commit the wrongful acts against Plaintiff as described herein.
66. The aforesaid occurrences were proximately caused by the willful, wanton, reckless, and grossly negligent conduct of the Defendants, their agents, servants and/or employees, in failing to properly and adequately supervise the conduct of Jackson as it related to the Plaintiff, other young children, other parishioners and/or other students.

67. As a result of the Defendants' grossly negligent retention and inadequate supervision of Jackson, Plaintiff was sexually abused by Jackson when Plaintiff was a minor.
68. As a result of Defendants' grossly negligent conduct, Plaintiff has suffered the injuries and damages described herein.

COUNT TWO

GROSSLY NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST ALL DEFENDANTS

69. Plaintiff incorporates all paragraphs of this complaint as if fully set forth under this count.
70. Defendants' conduct was outrageous and extreme. A reasonable person would not expect or tolerate Defendants placing individuals who were known and/or should have been known to Defendants as child molesters, in contact with minors at Sacred Heart. A reasonable person would not expect or tolerate Defendants allowing Jackson to have unsupervised contact with minors and failing to supervise or prevent Jackson from committing wrongful sexual acts with minors, including Plaintiff.
71. Defendants' conduct was grossly negligent and done for the purpose of causing, with a substantial certainty or reckless or conscious disregard, the likelihood that

Plaintiff would suffer the injuries and damages described herein.

72. As a direct and proximate result of the severe emotional distress, Plaintiff has suffered emotional, psychological and physical injury.

COUNT THREE

GROSSLY NEGLIGENT MISREPRESENTATION AGAINST ALL DEFENDANTS

73. Plaintiff incorporates all paragraphs of the Complaint as if fully set forth under this count.
74. Defendants, through their agents, represented to Plaintiff and his family that Jackson did not have a history of molesting children and did not pose a danger to children.
75. Jackson did have a history of molesting children and was a danger to children.
76. Defendants' representations to Plaintiff, his family and others regarding Jackson were false and Defendants were grossly negligent in their care and/or competence in providing said representations.
77. As a direct and proximate result of Defendants' above-described conduct, Plaintiff has suffered the injuries and damages described herein.

COUNT FOUR

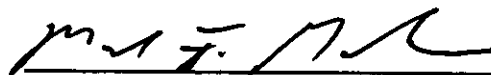
PUNITIVE DAMAGES

78. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

79. The conduct of the Defendants or each of them constituted gross negligence, intentional, willful and wanton, or malicious misconduct or was conducted with such a want of care as to constitute a conscious indifference to the rights of others including Plaintiff warranting the imposition of punitive damages.

WHEREFORE, Plaintiff prays that judgment be entered in his favor, and against Defendants, jointly and severally for general, special, and punitive damages, together with costs of suit, attorney's fees, pre- and post-judgment interest, and other relief pursuant to Rule 54 of the Hawaii Rules of Civil Procedure.

DATED: September 6, 2018, Honolulu, Hawaii.



Mark Gallagher
Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI`I

JOHN ROE NO. 101

Plaintiff,

vs.

CATHOLIC FOREIGN MISSION
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GOVERNMENTAL ENTITIES 1-10,

Defendants.

CIVIL NO. 18-1-1411-09
(Non-Motor Vehicle Tort)

SUMMONS

SUMMONS

STATE OF HAWAI`I

To the above-named Defendants:

You are hereby summoned and required to file with the court and serve upon THE LAW OFFICE OF MARK GALLAGHER, Plaintiff's attorney, whose address is 66 Kaiholu Place, Kailua, Hawai'i 96734, an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this Summons upon you, exclusive of the day of service. If you fail

to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

SEP 10 2018

DATED: September __, 2018. Honolulu, Hawaii.

N. ANAYA



Clerk of the above-entitled court

In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the First Circuit Court Administration Office at PHONE NO. 539-4333, FAX 539-4322, or TTY 539-4853, at least ten (10) working days prior to your hearing or appointment date.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI`I

JOHN ROE NO. 101

Plaintiff,

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CATHOLIC FOREIGN MISSION
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Defendants.

CIVIL NO. 18-1-1411-09
(Non-Motor Vehicle Tort)

DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

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

DATED: September 6, 2018. Honolulu, Hawai'i.



Mark F. Gallagher, Esq.
Attorney for Plaintiff