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Attorneys for Plaintiff

JAMES SCHWARTZ,

Plaintiff,

v.

CHARTWELL MANOR SCHOOL;
ABC ENTITY, its priests, reverends,
teachers, deacons, directors, officers,
employees, agents, servants,
representatives and/or volunteers, is a
fictitious name of an entity believed to
have employed Terrance Lynch; and
JOHN DOES 1-5, individually, and in
their capacity as a former and/or current
priest, reverend, teacher, deacon, director,
officer, employee, agent, servant,
representative and/or volunteer of the
defendants, are persons whose identities
are unknown to Plaintiff,

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION - MORRIS COUNTY

: DOCKET NO.: _____

: CIVIL ACTION

: **COMPLAINT, JURY DEMAND AND**
: **DESIGNATION OF TRIAL COUNSEL**

Plaintiff, James Schwartz, by and through Plaintiff's attorneys, by way of Complaint against the Defendant, states and alleges as follows:

PARTIES

1. At all times material to this Complaint, Plaintiff resided in the State of New Jersey.

2. At all times material, Defendant Chartwell Manor School (hereinafter “Chartwell”) was an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials, and representatives/agents/employees, authorized to conduct business in the State of New Jersey with its principal place of business in Mendham, NJ. Defendant Chartwell includes but is not limited to the organization and any other organization and/or entity operating under the same name with the same or similar principal place of business.

3. Whenever reference is made to the Defendant entity, such reference includes that entity, its parent companies, subsidiaries, affiliates, predecessors, and successors. In addition, whenever reference is made to any act, deed, or transaction of any entity, the allegation means that the entity engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of the entity’s business or affairs.

4. The Defendant ABC ENTITY, its priests, reverends, teachers, deacons, directors, officers, employees, agents, servants, representatives, and/or volunteers, is a fictitious name of an entity believed to have employed Terrance Lynch (“Lynch”).

5. The Defendant JOHN DOES 1-5, individually, and in their capacity as a former and/or current priest, reverend, teacher, deacon, director, officer, employee, agent, servant, representative and/or volunteer of the defendants, are persons whose identities are unknown to Plaintiff.

JURISDICTION, VENUE AND NEW LAWS

6. This Court has jurisdiction over this action as Defendant’s principal places of business are in New Jersey and because the unlawful conduct complained of herein occurred in

New Jersey.

7. Venue is proper in this county pursuant to New Jersey Court Rule 4:3-2 because this County is the principal place of business of Defendant Chartwell. In addition, events that are relevant to this action occurred within this County.

8. Recently, New Jersey passed into law Bills S477 and A3648, which became effective December 1, 2019. These new laws extend the statute of limitations in civil actions for sexual abuse claims, as well as created a two (2) year window for parties to bring previously time-barred actions based on sexual abuse. The new laws also expand the categories of potential defendants in civil actions and permit retroactive application of standards of liability to past acts of abuse for which liability did not previously exist. The said new laws apply to the parties herein.

FACTUAL ALLEGATIONS

9. Defendant Chartwell was a for-profit boarding school that enrolled students with special educational needs.

10. At all times material, Terrance Lynch (“Lynch”) was employed as the Headmaster by Defendant Chartwell. Lynch remained under the direct supervision, employ, and control of Defendant Chartwell.

11. Defendant placed Lynch in positions where he had access to and worked with children as an integral part of his work.

12. Plaintiff attended Chartwell as a boarding student. Plaintiff and Plaintiff’s family came in contact with Lynch as an agent and representative of Defendant and at Chartwell.

13. Plaintiff as a vulnerable child, was dependent on Defendant Chartwell and on Lynch. Defendant had custody and/or supervision of Plaintiff and accepted the entrustment of Plaintiff and, therefore, had responsibility for Plaintiff and authority over Plaintiff.

14. From approximately 1970 to 1973, when Plaintiff was approximately 15 to 17 years

old, Lynch engaged in unpermitted sexual contact with Plaintiff.

15. Plaintiff's relationship to Defendant and Lynch, as a vulnerable child and student, was one in which Plaintiff was subject to the ongoing influence of Defendant and Lynch.

16. Defendant knew or should have known that Lynch was a danger to children before he sexually assaulted Plaintiff.

17. In May 1986, Lynch was indicted on over 100 counts, including multiple charges of sexual assault, endangering the welfare of children, aggravated sexual assault, aggravated criminal sexual contact, and one count of criminal sexual contact for sexually abusing 12 boys and two girls over a 3 year period in the 1980s at Defendant Chartwell. The victims were all boarding students who were between 10 and 16 years old at the time of abuse.

18. On September 19, 1989, Lynch pled guilty to 17 of the counts. Lynch served seven years of a 14-year sentence in state prison and was released in 1997.

19. Upon release, Lynch became a volunteer at Beginnings Counseling & Referral Services, a drug and alcohol treatment program, where Lynch posed as a doctor and sexually assaulted adult men in a similar fashion.

20. Prior to the sexual abuse of Plaintiff, Defendant learned or should have learned that Lynch was not fit to work with children. Defendant, by and through its agents, servants and/or employees, became aware, or should have become aware of Lynch's propensity to commit sexual abuse and of the risk to Plaintiff's safety. At the very least, Defendant knew or should have known that they did not have sufficient information about whether or not its leaders and people working at Chartwell were safe.

21. Defendant knew or should have known that there was a risk of child sex abuse for children attending Chartwell. At the very least, Defendant knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for

children attending Chartwell.

22. Defendant knew or should have known that Defendant had numerous agents who had sexually molested children. Defendant knew or should have known that child molesters have a high rate of recidivism. Defendant knew or should have known that some of the leaders and people working at Chartwell were not safe and that there was a specific danger of child sex abuse for children participating in its youth programs.

23. Instead, Defendant negligently deemed that Lynch was fit to work with children and/or that any previous problems were fixed or cured and/or that Lynch would not sexually assault children and/or that Lynch would not injure children.

24. Defendant owed Plaintiff a duty of reasonable care because they had superior knowledge about the risk that Lynch posed to Plaintiff, the risk of abuse in general that its facilities posed to minor children.

25. Defendant owed a duty to Plaintiff to protect Plaintiff from harm because Defendant's actions created a foreseeable risk of harm to Plaintiff. As a vulnerable child attending Chartwell, Plaintiff was a foreseeable victim. As a vulnerable child who Lynch had access to through Defendant's facilities and programs, Plaintiff was a foreseeable victim.

26. Defendant also breached its duty to Plaintiff by actively maintaining and employing Lynch in a position of power and authority through which Lynch had access to children, including Plaintiff, and power and control over children, including Plaintiff.

27. Defendant breached its duties to Plaintiff. Defendant failed to use ordinary care in determining whether its facilities were safe and/or determining whether it had sufficient information to represent its facilities as safe. Defendant's breach of its duties include, but are not limited to: failure to protect Plaintiff from a known danger, failure to have sufficient policies and procedures to prevent child sex abuse, failure to properly implement policies and procedures to

prevent child sex abuse, failure to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of child sex abuse, failure to investigate risks of child sex abuse, failure to properly train its employees and headmaster, failure to train students within Defendant's geographical confines about the risk of sexual abuse, failure to have any outside agency test its safety procedures, failure to protect the children in its school from child sex abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders, and people as safe, failure to train its employees properly to identify signs of child sexual abuse by fellow employees, failure by relying upon mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

28. Defendant also breached its duty to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Lynch posed and the risks of child sexual abuse in schools. They also failed to warn them about any of the knowledge that Defendant had about child sexual abuse.

29. Defendant additionally violated a legal duty by failing to report known and/or suspected abuse of children by Lynch and/or its other agents to the child protection agencies, police, and law enforcement.

30. Defendant was negligent and/or made representations to Plaintiff and Plaintiff's family during each and every year of Plaintiff's minority.

31. As a result of Defendant's negligence as described herein, Plaintiff has suffered, and will continue to suffer, great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, and physical, personal and psychological injuries. Plaintiff was prevented, and will continue to be prevented, from performing normal daily activities and obtaining the full enjoyment of life; and/or

has incurred and will continue to incur expenses for psychological treatment, therapy, and counseling, and, on information and belief has and/or will incur loss of income and/or loss of earning capacity.

COUNT I: NEGLIGENCE

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

32. Defendant owed Plaintiff a duty of reasonable care to protect the Plaintiff from injury.

33. Defendant owed Plaintiff a duty of care because Defendant had a special relationship with Plaintiff.

34. Defendant also had a duty arising from the special relationship that existed with Plaintiff, Plaintiff's parents, and other parents of young, innocent, vulnerable children, to properly train and supervise its employees and agents. This special relationship arose because of the high degree of vulnerability of the children entrusted to its care. As a result of this high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendant had a duty to establish measures of protection not necessary for persons who are older and better able to safeguard themselves.

35. Defendant owed Plaintiff a duty to protect Plaintiff from harm because Defendant also had a special relationship with Lynch.

36. Defendant owed Plaintiff a duty of reasonable care because it solicited youth to attend its school; undertook custody of minor children, including Plaintiff; promoted its facilities and programs as being safe for children; held its agents, including Lynch, out as safe to work with children; encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Lynch, to spend time with, interact with, and recruit children.

37. By holding Lynch out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, Defendant entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendant undertaking the care and guidance of the then vulnerable minor Plaintiff, Defendant held a position of empowerment over Plaintiff.

38. Further, Defendant, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. Defendant thus entered into a fiduciary relationship with Plaintiff. Defendant exploited its position of empowerment, putting Plaintiff at risk to be sexually assaulted.

39. By accepting custody and/or supervision of the minor Plaintiff, Defendant established an *in loco parentis* relationship with Plaintiff and in so doing, owed Plaintiff a duty to protect Plaintiff from injury. Further, Defendant entered into a fiduciary relationship with Plaintiff by undertaking the custody, supervision of, and/or care of the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendant undertaking the care and guidance of the Plaintiff, Defendant also held a position of empowerment over Plaintiff. Further, Defendant, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. Defendant, through its employees, exploited this power over Plaintiff and thereby put the minor Plaintiff at risk for sexual abuse.

40. By establishing and or operating Chartwell, accepting the minor Plaintiff as a student, holding its facilities and programs out to be a safe environment for Plaintiff, accepting custody of the minor Plaintiff *in loco parentis*, and by establishing a fiduciary relationship with Plaintiff, Defendant had an express and/or implied duty to properly supervise Plaintiff and provide a reasonably safe environment for children, who attended its school. Defendant Chartwell owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from foreseeable dangers.

Defendant had the duty to exercise the same degree of care over minors under its control as a reasonably prudent person would have exercised under similar circumstances.

41. By establishing and operating Chartwell, which offered educational programs to children, and by accepting the enrollment and participation of the minor Plaintiff as a participant in those educational programs, Defendant owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from generally foreseeable dangers.

42. Defendant owed Plaintiff a duty to protect Plaintiff from harm because Defendant invited Plaintiff onto its property and Lynch posed a dangerous condition on Defendant Chartwell's property.

43. Defendant Chartwell breached its duties to Plaintiff by failing to use reasonable care. Defendant's failures include, but are not limited to, failing to properly supervise Lynch, failing to properly supervise Plaintiff and failing to protect Plaintiff from a known danger.

44. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory damages, together with interest and costs in an unspecified amount, plus costs, disbursements, reasonable attorneys' fees, interest, and such other and further relief as the Court deems just and equitable.

COUNT II: NEGLIGENT HIRING

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

37. At all times material, Lynch was employed by Defendant Chartwell and was under Defendant Chartwell's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Lynch engaged in the illegal conduct while acting in the course and scope of

his employment with Defendant Chartwell and/or accomplished the sexual abuse by virtue of his job-created authority.

38. Defendant Chartwell negligently hired Lynch and/or negligently placed Lynch in a position to cause foreseeable harm which Plaintiff would not have been subjected to had Defendant Chartwell taken reasonable care in its pre-hiring investigation of Lynch.

39. Defendant Chartwell negligently hired Lynch with knowledge of Lynch's propensity for the type of behavior which resulted in Plaintiff's injuries in this action.

40. Defendant Chartwell failed to investigate Lynch's past history of inappropriate conduct and, through the exercise of reasonable diligence, should have known of Defendant Lynch's propensity for child sexual abuse. Defendant Chartwell was required to make an appropriate investigation of Lynch and failed to do so. An appropriate investigation would have revealed the unsuitability of Lynch for employment and it was unreasonable for Defendant Chartwell to hire Lynch in light of the information they knew or should have known.

45. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory damages, together with interest and costs in an unspecified amount, plus costs, disbursements, reasonable attorneys' fees, interest, and such other and further relief as the Court deems just and equitable.

COUNT III: NEGLIGENT TRAINING AND SUPERVISION

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

46. At all times material, Lynch was employed by Defendant and was under Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged

herein. Lynch engaged in the wrongful conduct while acting in the course and scope of his employment with Defendant and/or accomplished the sexual abuse by virtue of his job-created authority.

47. Defendant had a duty, arising from its employment of Lynch, to ensure that Lynch did not sexually molest children.

48. Further, Defendant owed a duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent, and address inappropriate behavior and conduct between employees and children.

49. Defendant was negligent in the training, supervision, and instruction of its employees. Defendant failed to timely and properly educate, train, supervise, and/or monitor its agents or employees with regard to policies and procedures that should be followed when sexual abuse of a child is suspected or observed.

50. Defendant was additionally negligent in failing to supervise, monitor, chaperone, and/or investigate Lynch and/or in failing to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent Lynch's sexual abuse of Plaintiff.

51. In failing to properly supervise Lynch, and in failing to establish such training procedures for employees and administrators, Defendant failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

52. As a direct and proximate result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory damages, together with interest and costs in an unspecified amount, plus costs, disbursements, reasonable attorneys' fees, interest, and such other and further relief as the Court deems just and equitable.

COUNT IV: NEGLIGENT RETENTION

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

53. At all times material, Lynch was employed by Defendant and was under Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein.

54. Defendant became aware or should have become aware of Lynch's propensity for sexual abuse, and failed to take any further action to remedy the problem and failed to investigate or remove Lynch from working with children.

55. Defendant negligently retained Lynch with knowledge of Lynch's propensity for the type of behavior which resulted in Plaintiff's injuries in this action.

56. Defendant negligently retained Lynch in a position where he had access to children and could foreseeably cause harm which Plaintiff would not have been subjected to had Defendant taken reasonable care.

57. In failing to timely remove Lynch from working with children or terminate the employment of Lynch, Defendant failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

58. As a direct and proximate result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory damages, together with interest and costs in an unspecified amount, plus costs, disbursements, reasonable attorneys' fees, interest, and such other and further relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

The Plaintiff demands a trial by jury on all of the triable issues of this Complaint, pursuant to New Jersey Court Rules 1:8-2(b) and 4:35-1(a).

RULE 4:5-1 CERTIFICATION

I hereby certify that the matter in controversy is not the subject of any other pending and/or contemplated action or pending and or contemplated proceeding. I know of no other parties who should be joined in this action at this time.

GIANFORCARO LAW

JEFF ANDERSON & ASSOCIATES PA

/s/ Gregory G. Gianforcaro
Gregory G. Gianforcaro, Esq.
Attorneys for Plaintiff

/s/ Jeffrey R. Anderson / Trusha P. Goffe
Jeffrey R. Anderson, Esq.
Trusha P. Goffe, Esq.
Nahid A. Shaikh, Esq.
Attorneys for Plaintiff

Dated: December 10, 2019

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Plaintiff hereby designates Gregory G. Gianforcaro, Esq. as trial counsel for Plaintiff.

GIANFORCARO LAW

JEFF ANDERSON & ASSOCIATES PA

/s/ Gregory G. Gianforcaro
Gregory G. Gianforcaro, Esq.
Attorneys for Plaintiff

/s/ Jeffrey R. Anderson / Trusha P. Goffe
Jeffrey R. Anderson, Esq.
Trusha P. Goffe, Esq.
Nahid A. Shaikh, Esq.
Attorneys for Plaintiff

Dated: December 10, 2019

Civil Case Information Statement

Case Details: MORRIS | Civil Part Docket# L-002595-19

Case Caption: SCHWARTZ JAMES VS CHARTWELL
MANOR SCHO OL
Case Initiation Date: 12/10/2019
Attorney Name: GREGORY GEORGE GIANFORCARO
Firm Name: GREGORY G. GIANFORCARO, ATTORNEY
AT LAW
Address: 80 SOUTH MAIN STREET
PHILLIPSBURG NJ 08865
Phone: 9088592200
Name of Party: PLAINTIFF : Schwartz, James
Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: PERSONAL INJURY
Document Type: Complaint with Jury Demand
Jury Demand: YES - 6 JURORS
Is this a professional malpractice case? NO
Related cases pending: NO
If yes, list docket numbers:
Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Sexual Abuse Matter pursuant to new statute of limitations law.

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

12/10/2019
Dated

/s/ GREGORY GEORGE GIANFORCARO
Signed

