

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

AB 393 DOE,

Plaintiff,

v.

ST. BRIGID, A/K/A OUR LADY OF
MERCY AND ST. BRIGID A
ROMAN CATHOLIC FAMILY,
F/K/A ST. BRIDGET; and DOES 1-5
whose identities are unknown to
Plaintiff,

Defendants.

Index No. _____

SUMMONS

Date Index No. Purchased: July 12, 2021

TO THE ABOVE NAMED DEFENDANTS:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the Complaint, a copy of which is hereby served upon you, and to serve a copy of your Answer to the Complaint upon the undersigned attorneys listed below within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment by default will be taken against you for the relief demanded herein.

The basis of venue is the principal place of business of Defendant St. Brigid, a/k/a Our Lady of Mercy and St. Brigid a Roman Catholic Family, f/k/a St Bridget, which is located at 18 Gibson Street, Bergen, New York 14416; St. Brigid's office is located at 44 Lake Street, Leroy, New York 14482.

Dated: July 12, 2021.



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COMPLAINT

DEMAND FOR JURY TRIAL¹

Plaintiff, by and through Plaintiff's attorneys, states and alleges as follows:

PARTIES

1. At all times material to this Complaint, Plaintiff resided in the State of New York.
2. Plaintiff brings this action under a pseudonym with leave of Court.
3. At all times material, Plaintiff was a minor under 18 years of age when the sexual abuse occurred.

4. This action is brought pursuant to the New York Child Victims Act, CPLR § 214-g. The conduct at issue constituted sexual offense against a minor in violation of a section within Article 130 and/or § 263.05 of the New York Penal Law, or a predecessor statute that prohibited such conduct at the time of the act, and resulted in physical, psychological, and emotional injuries. As a civil cause of action was previously time-barred prior to August 14, 2019, the terms of the Child Victims Act, CPLR § 214-g, revive the claims set forth below.

¹ Pursuant to §4 of the New York Child Victims Act, Plaintiff is entitled to a trial preference.

5. Whenever reference is made to any 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.

6. At all times material, Defendant St. Brigid, a/k/a Our Lady of Mercy and St. Brigid A Roman Catholic Family, f/k/a St. Bridget ("St. Brigid") was and continues to be an organization authorized to conduct business and conducting business in the State of New York, with its principal place of business at 18 Gibson Street, Bergen, New York 14416. St. Brigid's office is located at 44 Lake Street, LeRoy, New York 14482. St. Brigid includes, but is not limited to, the St. Brigid corporation and any other organizations and/or entities operating under the same or similar name with the same or similar principal place of business.

7. At all times material, St. Brigid was and continues to be under the direct authority, control, and province of the Diocese of Buffalo, New York ("Diocese") and the Bishop of the Diocese.

8. Defendants Does 1 through 5 are unknown agents whose identities will be provided when they become known pursuant to CPLR § 1024.

JURISDICTION

9. This Court has jurisdiction pursuant to CPLR § 301 as Defendant's principal place of business is in New York and because the unlawful conduct complained of herein occurred in New York.

10. Venue is proper pursuant to CPLR § 503 in that a substantial part of the events

giving rise to this action occurred in Erie County.

FACTS

11. At all times material, Father Richard Keppeler (“Fr. Keppeler”) was a Roman Catholic cleric employed by Defendant St. Brigid and the Diocese. Fr. Keppeler remained under the direct supervision, employ, and control of Defendant St. Brigid and the Diocese.

12. Defendant St. Brigid and Diocese placed Fr. Keppeler in positions where he had access to and worked with children as an integral part of his work.

13. At all times material, Bishop Edward M. Grosz (“Bishop Grosz”) was a Roman Catholic cleric employed by the Diocese of Buffalo. Bishop Grosz remained under the direct supervision, employ, and control of the Diocese.

14. The Diocese of Buffalo placed Bishop Grosz in positions where he had access to and worked with children as an integral part of his work.

15. Defendant St. Brigid and the Diocese held its leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to their programs, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe.

16. Plaintiff was raised in a devout Roman Catholic family and attended St. Brigid in Bergen, in the Diocese of Buffalo. Plaintiff and Plaintiff’s family came in contact with Fr. Keppeler and Bishop Grosz as an agent and representative of the Diocese and Defendant St. Brigid, and at St. Brigid.

17. Plaintiff participated in youth activities and/or church activities at St. Brigid. Plaintiff, therefore, developed great admiration, trust, reverence, and respect for the Roman

Catholic Church, including Defendant St. Brigid and its agents, including Fr. Keppeler and Bishop Grosz.

18. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on Defendant St. Brigid, Fr. Keppeler and Bishop Grosz. Defendant St. Brigid had custody of Plaintiff and accepted the entrustment of Plaintiff and, therefore, had responsibility for Plaintiff and authority over Plaintiff.

19. From approximately 1985 to 1990, when Plaintiff was approximately 10 to 15 years old, Fr. Keppeler engaged in unpermitted sexual contact with Plaintiff in violation of at least one section of New York Penal Law Article 130 and/or § 263.05, or a predecessor statute that prohibited such conduct at the time of the abuse.

20. In approximately 1990, when Plaintiff was approximately 15 years old, Bishop Grosz engaged in unpermitted sexual contact with Plaintiff in violation of at least one section of New York Penal Law Article 130 and/or § 263.05, or a predecessor statute that prohibited such conduct at the time of the abuse.

21. Plaintiff's relationship to Defendant St. Brigid, Fr. Keppeler and Bishop Grosz, as a vulnerable child, parishioner, and participant in church activities, was one in which Plaintiff was subject to the ongoing influence of Defendant St. Brigid, Fr. Keppeler and Bishop Grosz.

22. The culture of the Catholic Church over Plaintiff created pressure on Plaintiff not to report the abuse Plaintiff suffered.

23. Defendant St. Brigid and the Diocese knew or should have known that Fr. Keppeler was a danger to children before Fr. Keppeler sexually assaulted Plaintiff.

24. Defendant St. Brigid and the Diocese knew or should have known that Bishop Grosz was a danger to children before Defendant Grosz sexually assaulted Plaintiff.

25. Prior to the sexual abuse of Plaintiff, Defendant St. Brigid and the Diocese learned or should have learned that Fr. Keppeler and Bishop Grosz were not fit to work with children. Defendant St. Brigid, by and through its agents, servants and/or employees, became aware, or should have become aware of Fr. Keppeler's and Bishop Grosz's propensity to commit sexual abuse and of the risk to Plaintiff's safety. At the very least, Defendant St. Brigid knew or should have known that it did not have sufficient information about whether or not its leaders and people working at Catholic institutions within the Diocese were safe.

26. Defendant St. Brigid and the Diocese knew or should have known that there was a risk of child sexual abuse for children participating in Catholic programs and activities within the Diocese. At the very least, Defendant St. Brigid and the Diocese knew or should have known that it did not have sufficient information about whether or not there was a risk of child sexual abuse for children participating in Catholic programs and activities within the Diocese.

27. Defendant St. Brigid and the Diocese knew or should have known that Defendant St. Brigid and the Diocese had numerous agents who had sexually molested children. Defendant St. Brigid and the Diocese knew or should have known that child molesters have a high rate of recidivism. Defendant St. Brigid and the Diocese knew or should have known that some of the leaders and people working in Catholic institutions within the Diocese were not safe and that there was a specific danger of child sexual abuse for children participating in its youth programs.

28. Instead, Defendant St. Brigid and the Diocese negligently deemed that Fr. Keppeler, and Bishop Grosz were fit to work with children and/or that any previous problems were fixed or cured and/or that Fr. Keppeler and Bishop Grosz would not sexually assault children and/or that Fr. Keppeler and Bishop Grosz would not injure children.

29. Defendant St. Brigid and the Diocese owed Plaintiff a duty of reasonable care

because it had superior knowledge about the risk that Fr. Keppeler and Bishop Grosz posed to Plaintiff, the risk of abuse in general in its programs and/or the risks that its facilities posed to minor children.

30. Defendant St. Brigid and the Diocese owed a duty to Plaintiff to protect Plaintiff from harm because Defendant St. Brigid's and the Diocese's actions created a foreseeable risk of harm to Plaintiff. As a vulnerable child participating in the programs and activities Defendant St. Brigid offered to minors, Plaintiff was a foreseeable victim. As a vulnerable child who Fr. Keppeler and Bishop Grosz had access to through Defendant St. Brigid's and the Diocese's facilities and programs, Plaintiff was a foreseeable victim.

31. Defendant St. Brigid and the Diocese also breached its duty to Plaintiff by actively maintaining and employing Fr. Keppeler and Bishop Grosz in a position of power and authority through which Fr. Keppeler and Bishop Grosz had access to children, including Plaintiff, and power and control over children, including Plaintiff.

32. Defendant St. Brigid and the Diocese breached their duties to Plaintiff. Defendant St. Brigid and the Diocese failed to use ordinary care in determining whether their facilities were safe and/or determining whether they had sufficient information to represent their facilities as safe. Defendant St. Brigid's and the Diocese's breach of their 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 sexual abuse; failure to properly implement policies and procedures to prevent child sexual abuse; failure to take reasonable measures to make sure that policies and procedures to prevent child sexual abuse were working; failure to adequately inform families and children of the risks of child sexual abuse; failure to investigate risks of child sexual abuse; failure to properly train the employees at institutions and programs within Defendant St. Brigid's and the Diocese's

geographical confines; failure to train parishioners within Defendant St. Brigid's and the Diocese's geographical confines about the risk of sexual abuse; failure to have any outside agency test their safety procedures; failure to protect the children in their programs from child sexual 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 their employees to 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.

33. Defendant St. Brigid and the Diocese also breached their duty to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Fr. Keppeler and Bishop Grosz posed and the risks of child sexual abuse in Catholic institutions. Defendant St. Brigid and the Diocese also failed to warn them about any of the knowledge that Defendant St. Brigid and the Diocese had about child sexual abuse.

34. Defendant St. Brigid and the Diocese additionally violated a legal duty by failing to report known and/or suspected abuse of children by Fr. Keppeler and Bishop Grosz and/or their other agents to the police and law enforcement.

35. Defendant St. Brigid and the Diocese were negligent and/or made representations to Plaintiff and Plaintiff's family during each and every year of Plaintiff's minority.

36. As a direct result of Defendant St. Brigid'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, 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.

37. The limitations of Article 16 of the CPLR do not apply because one of more of the exceptions set forth in CPLR 1601 and/or 1602 apply.

AS AND FOR A FIRST CAUSE OF ACTION:
NEGLIGENCE AGAINST DEFENDANT ST. BRIGID

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

39. Defendant St. Brigid and the Diocese owed Plaintiff a duty of reasonable care to protect Plaintiff from injury.

40. Defendant St. Brigid and the Diocese owed Plaintiff a duty of reasonable care because Defendant St. Brigid and the Diocese had a special relationship with Plaintiff.

41. Defendant St. Brigid and Diocese also had a duty arising from their special relationship with Plaintiff, Plaintiff's parents, and other parents of young, vulnerable children, to properly train and supervise their clerics, agents, and employees. The special relationship arose because of the high degree of vulnerability of the children entrusted to the Diocese and Defendant St. Brigid's care. As a result of the high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendant St. Brigid and the Diocese had a duty to establish measures of protection not necessary for persons who are older or better able to safeguard themselves.

42. Defendant St. Brigid and the Diocese owed Plaintiff a duty to protect Plaintiff from harm because Defendant St. Brigid and the Diocese had a special relationship with Fr. Keppeler and Bishop Grosz.

43. Defendant St. Brigid and the Diocese owed Plaintiff a duty to control the conduct of Fr. Keppeler and Bishop Grosz because Defendant St. Brigid and the Diocese had complete ability to control Fr. Keppeler's and Bishop Grosz's access to children, like Plaintiff, to prevent the foreseeable harms associated with childhood sexual abuse, giving rise to a special relationship with Fr. Keppeler and Bishop Grosz and a duty to control Fr. Keppeler's and Bishop Grosz's conduct.

44. Defendant St. Brigid and the Diocese owed Plaintiff a duty of reasonable care because Defendant St. Brigid and the Diocese 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 Fr. Keppeler and Bishop Grosz, out as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Fr. Keppeler and Bishop Grosz, to spend time with, interact with, and recruit children.

45. By holding Fr. Keppeler and Bishop Grosz out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, Defendant St. Brigid and the Diocese entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendant St. Brigid and the Diocese undertaking the care and guidance of the then vulnerable minor Plaintiff, Defendant St. Brigid and the Diocese held a position of empowerment over Plaintiff.

46. Further, Defendant St. Brigid and the Diocese, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. Defendant St. Brigid and the Diocese thus entered into a fiduciary relationship

with Plaintiff. Defendant St. Brigid and the Diocese exploited their position of empowerment, putting Plaintiff at risk to be sexually assaulted.

47. By accepting custody of the minor Plaintiff, Defendant St. Brigid and the Diocese established an *in loco parentis* relationship with Plaintiff and in so doing, owed Plaintiff a duty to protect Plaintiff from injury.

48. By establishing and/or operating St. Brigid and the Diocese, accepting the minor Plaintiff as a participant in their programs, holding their 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 St. Brigid and the Diocese entered into an express and/or implied duty to properly supervise Plaintiff and provide a reasonably safe environment for children, who participated in their programs. Defendant St. Brigid and the Diocese also owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from foreseeable dangers. Defendant St. Brigid and the Diocese had the duty to exercise the same degree of care over young parishioners under its control as a reasonably prudent person would have exercised under similar circumstances.

49. By establishing and operating St. Brigid and the Diocese, 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 St. Brigid and the Diocese owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from generally foreseeable dangers.

50. Defendant St. Brigid and the Diocese owed Plaintiff a duty to protect Plaintiff from harm because Defendant St. Brigid and the Diocese invited Plaintiff onto their property and Fr. Keppeler, and Bishop Grosz posed a dangerous condition on Defendant St. Brigid's and the Diocese's property.

51. Defendant St. Brigid and the Diocese breached their duties to Plaintiff by failing to use reasonable care. Defendant St. Brigid's and the Diocese's failures include, but are not limited to, failing to properly supervise Fr. Keppeler and Bishop Grosz, failing to properly supervise Plaintiff and failing to protect Plaintiff from a known danger.

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

AS AND FOR A SECOND CAUSE OF ACTION:
NEGLIGENT TRAINING AND SUPERVISION OF EMPLOYEES AGAINST
DEFENDANT ST. BRIGID

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

54. At all times material, Fr. Keppeler and Bishop Grosz were employed by Defendant St. Brigid and Diocese and was under Defendant St. Brigid's and the Diocese's direct supervision, employ, and control when they committed the wrongful acts alleged herein. Fr. Keppeler and Bishop Grosz engaged in the wrongful conduct while acting in the course and scope of their employment with Defendant St. Brigid and the Diocese, and/or accomplished the sexual abuse by virtue of their job-created authority.

55. Defendant St. Brigid and the Diocese had a duty, arising from their employment of Fr. Keppeler and Bishop Grosz, to ensure that Fr. Keppeler and Bishop Grosz did not sexually molest children.

56. Further, Defendant St. Brigid and the Diocese 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 clerics and agents and children.

57. The abuse complained of herein occurred on Defendant St. Brigid's property and/or with the use of its chattels.

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

59. Defendant St. Brigid and the Diocese were additionally negligent in failing to supervise, monitor, chaperone, and/or investigate Fr. Keppeler and Bishop Grosz and/or in failing to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent Fr. Keppeler's and Bishop Grosz's sexual abuse of Plaintiff.

60. In failing to properly supervise Fr. Keppeler and Bishop Grosz, and in failing to establish such training procedures for employees and administrators, Defendant St. Brigid and the Diocese failed to exercise the care that a reasonably prudent person would have exercised under similar circumstances.

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

AS AND FOR A THIRD CAUSE OF ACTION:
NEGLIGENT RETENTION OF EMPLOYEES AGAINST
DEFNDANT ST. BRIGID

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

63. Defendant St. Brigid and the Diocese became aware or should have become aware of Fr. Keppeler's and Bishop Grosz's propensity for child sexual abuse and failed to take any further action to remedy the problem and failed to investigate or remove Fr. Keppeler and Bishop

Grosz from working with children.

64. Defendant St. Brigid and the Diocese negligently and/or recklessly retained Fr. Keppeler and Bishop Grosz with knowledge of Fr. Keppeler's and Bishop Grosz's propensity for the type of behavior, which resulted in Plaintiff's injuries in this action.

65. Defendant St. Brigid and the Diocese negligently and/or recklessly retained Fr. Keppeler and Bishop Grosz in positions where Fr. Keppeler and Bishop Grosz had access to children and could foreseeably cause harm, which Plaintiff would not have been subjected to had Defendant St. Brigid and the Diocese acted reasonably.

66. In failing to timely remove Fr. Keppeler and Bishop Grosz from working with children or terminate the employment of Fr. Keppeler and Bishop Grosz, Defendant St. Brigid, and the Diocese negligently and/or recklessly failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

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

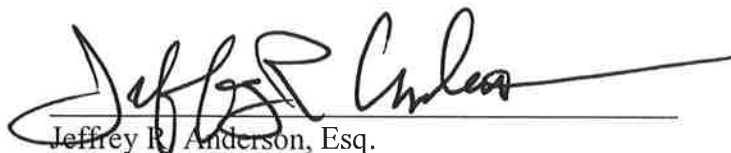
PRAYER FOR RELIEF

WHEREFORE, based on the foregoing causes of action, Plaintiff prays for judgment against Defendants in an amount that will fully and fairly compensate Plaintiff for Plaintiff's injuries and damages and for any other relief the Court deems appropriate. The amount of damages sought in this Complaint exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

JURY DEMAND

Plaintiff demands a trial by jury of all issues so triable. Pursuant to §4 of the New York Child Victims Act, Plaintiff is entitled to a trial preference.

Dated: July 12, 2021.



Jeffrey R. Anderson, Esq.

Michael G. Finnegan, Esq.

Stacey J. Benson, Esq.

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