

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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J.K.,

Plaintiff,

COMPLAINT

-against-

ARCHDIOCESE OF NEW YORK; DIOCESE OF BROOKLYN;
ST. JOSEPH’S ROMAN CATHOLIC CHURCH; CATHOLIC
CHARITIES COMMUNITY SERVICES; and ROBERT
CALDERA,

Index No. _____

Defendants.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, J.K., by and through undersigned counsel, respectfully shows to this Court and alleges as follows:

INTRODUCTION

1. This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. Plaintiff, when he was a minor, was sexually assaulted by ROBERT CALDERA, an employee of the DIOCESE OF BROOKLYN employed by ST. JOSEPH CATHOLIC CHURCH as a basketball coach for the Catholic Youth Organization, a division of CATHOLIC CHARITIES COMMUNITY SERVICES under the ARCHDIOCESE OF NEW YORK.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff, J.K., is a citizen and resident of the State of New York. Plaintiff brings this Complaint using his initials because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment

and further psychological damage if his identity as a victim of child sexual abuse were to become publicly known.

3. Defendant, ARCHDIOCESE OF NEW YORK (hereinafter, "ARCHDIOCESE"), is a religious institution and organization with principal offices located at 1011 First Avenue, New York, New York 10022. The ARCHDIOCESE controls all Catholic religious, charitable, pastoral, and educational functions in the boroughs of Manhattan, the Bronx and Staten Island, and in other counties in the greater New York metropolitan area. The ARCHDIOCESE operates and controls approximately 370 parishes, 274 schools and 90 Catholic charities. The ARCHDIOCESE is a citizen and resident of the State of New York.

4. Defendant, DIOCESE OF BROOKLYN (hereinafter, "DIOCESE"), is a religious institution and organization with principal offices located at 310 Prospect Park West, Brooklyn, New York 11215. The DIOCESE OF BROOKLYN controls all Catholic religious, pastoral, and educational functions in the boroughs of Brooklyn and Queens, encompassing approximately 180 parishes and 210 churches. The DIOCESE is a citizen and resident of the State of New York.

5. Defendant ST. JOSEPH'S ROMAN CATHOLIC CHURCH (hereinafter, "CHURCH") is a Roman Catholic Church and parish located at 4319 30th Ave, Astoria/Long Island City, NY 11103. ST. JOSEPH is a citizen and resident of the State of New York. The CHURCH is a citizen and resident of the State of New York.

6. Defendant, CATHOLIC CHARITIES COMMUNITY SERVICES of the Archdiocese of New York (hereinafter, "CATHOLIC CHARITIES") is a not-for-profit New York corporation organized under the laws of the State of New York with a principal place of business located at 1011 First Avenue, New York, New York 10022. CATHOLIC CHARITIES was founded in 1917 and is a federation of approximately 90 agencies that provided various community

services, including programs, sports, events, and activities, to both Catholics and non-Catholics in the boroughs of Manhattan, the Bronx, and Staten Island, as well as parts of the Hudson Valley. The Catholic Youth Organization New York (hereinafter, "CYO") is a division of CATHOLIC CHARITIES. CATHOLIC CHARITIES is a citizen and resident of the State of New York.

7. At all times relevant and material hereto, Defendant ROBERT CALDERA (hereinafter, "CALDERA") was employed as a youth basketball coach for the Catholic Youth Organization (hereinafter, "CYO"), a division of CATHOLIC CHARITIES under the ARCHDIOCESE.

8. At all times relevant and material hereto, CALDERA was also an employee of the DIOCESE, employed by CHURCH as a basketball coach. To the best of Plaintiff's knowledge, CALDERA is a citizen and resident of the State of New York.

9. This Court has subject-matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

10. Personal jurisdiction lies over Defendant as it is present and domiciled in the State of New York.

11. Venue of this action lies in Queens County and a substantial part of the events or omissions giving rise to the claim occurred in Queens County or the Defendant resides in Queens County.

12. The amount in controversy exceeds the jurisdictional limits of all lower courts.

DUTY
Defendant DIOCESE

13. At all times relevant and material hereto, the DIOCESE, as principal, and CHURCH, as agent, were in an agency relationship, such that CHURCH acted on the

DIOCESE's behalf, in accordance with the DIOCESE's instructions and directions on all matters, including those relating to the hiring, retention and supervision of personnel. The acts and omissions of CHURCH were subject to the DIOCESE's plenary control, and CHURCH consented to act subject to the DIOCESE's control.

14. At all times relevant and material hereto, the DIOCESE and Plaintiff were in a special relationship of CYO sponsor and CYO participant, in which the DIOCESE owed Plaintiff a duty of reasonable care to prevent foreseeable harm.

15. At all times relevant and material hereto, the DIOCESE had a duty to act as a reasonably prudent parent would to protect Plaintiff from foreseeable harms on church grounds and during church-related activities. In this regard, the DIOCESE was *in loco parentis* with those who participate in CHURCH sponsored events, like Plaintiff.

16. At all times relevant and material hereto, the DIOCESE and CALDERA were in a special relationship of employer-employee, in which the DIOCESE owed a duty to control the acts and conduct of CALDERA to prevent foreseeable harm.

17. At all times relevant and material hereto, the DIOCESE had a duty to exercise reasonable care in the training of teachers and staff in the prevention of sexual abuse and protection of the safety of students in its care.

18. At all times relevant and material hereto, the DIOCESE had a duty to establish and implement policies and procedures in the exercise of reasonable care for the prevention of sexual abuse and protection of the safety of the children and parishioners in its care.

19. At all times relevant and material hereto, the DIOCESE had a duty to warn children and parents of dangers presented to children participating in activities such as the CYO, including the dangers of sexual abuse.

20. At all times relevant and material hereto, the DIOCESE owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being, and health of Plaintiff while he was under the care and custody, and/or in the presence of the DIOCESE.

21. At all times relevant and material hereto, the DIOCESE's duties encompassed using reasonable care in the retention, supervision, and hiring of CALDERA and the duty to otherwise provide a safe environment for Plaintiff.

22. At all times relevant and material hereto, the DIOCESE's duties encompassed the protection and supervision of Plaintiff, and otherwise providing a safe environment for Plaintiff while on CHURCH premises and participating in CHURCH and CYO activities.

23. At all times relevant and material hereto, the DIOCESE had a duty to exercise reasonable care in the training of teachers, employees, administration, and staff in the prevention of sexual abuse and protection of the safety of children and students in its care.

Defendant CHURCH

24. At all times relevant and material hereto, the CHURCH and Plaintiff were in a special relationship of CYO sponsor and CYO participant, in which the CHURCH owed Plaintiff a duty of reasonable care to protect him from foreseeable harm.

25. At all times relevant and material hereto, CHURCH and CALDERA were in a special relationship of employer – employee, in which the Defendant owed a duty to control the acts and conduct of CALDERA to prevent foreseeable harm.

26. At all times relevant and material hereto, the CHURCH's duties encompassed using reasonable care in the retention, supervision and hiring of CALDERA and the duty to otherwise provide a safe environment for Plaintiff.

27. At all times relevant and material hereto, the CHURCH had a duty to exercise

reasonable care in the training of clergy, priests, administration, and staff in the prevention of sexual abuse and protection of the safety of children and parishioners in their care.

28. At all times relevant and material hereto, the CHURCH had a duty to establish and implement policies and procedures in the exercise of reasonable care for the prevention of sexual abuse and protection of the safety of the children and parishioners in their care.

29. At all times relevant and material hereto, CHURCH had a duty to warn children and parents of dangers presented to children while engaging in CHURCH-related activities, including the dangers of sexual abuse.

30. At all times relevant and material hereto, the CHURCH owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being, and health of Plaintiff while he was under the care and custody and/or in the presence of CHURCH.

31. At all times relevant and material hereto, CHURCH's duties encompassed the protection and supervision of Plaintiff, and otherwise providing a safe environment for Plaintiff while on CHURCH premises.

Defendants ARCHDIOCESE and CATHOLIC CHARITIES

32. At all times relevant and material hereto, Defendants ARCHDIOCESE and CATHOLIC CHARITIES provides services including, but not limited to: programs, activities, sports, and events to young parishioners, parochial school students, and young members of communities through the CYO, a Division of CATHOLIC CHARITIES.

33. At all times relevant and material hereto, Defendants ARCHDIOCESE and CATHOLIC CHARITIES, through CHURCH, were in a special relationship with Plaintiff who participated in the CYO, in which Defendants ARCHDIOCESE and CATHOLIC CHARITIES owed Plaintiff a duty of reasonable care to protect him from foreseeable harms.

34. At all times relevant and material hereto, Defendants ARCHDIOCESE and CATHOLIC CHARITIES, through CHURCH, owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under Defendants' care and custody at CYO events.

35. At all relevant times, Defendants ARCHDIOCESE and CATHOLIC CHARITIES had a duty to report and institute corrective measures in response to notice that a child was at risk of foreseeable harms.

Defendant CALDERA

36. At all times relevant and material hereto, Defendant CALDERA and Plaintiff were in a special relationship basketball coach -basketball player, in which CALDERA owed Plaintiff a duty of reasonable care to protect Plaintiff from foreseeable harm.

37. At all times relevant and material hereto, CALDERA owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under the care and custody, and/or in the presence of CALDERA

38. At all times relevant and material hereto, CALDERA's duties encompassed the protection and supervision of Plaintiff, and otherwise providing a safe environment for Plaintiff.

ROBERT CALDERA'S SEXUAL ASSAULTS OF PLAINTIFF

39. At all times relevant and material hereto, Plaintiff played basketball for the CYO in the CHURCH's parish.

40. At all times material and relevant hereto, CALDERA was employed by Defendants as a basketball coach for the CYO.

41. As a basketball player for the CYO, Plaintiff had regular contact with CALDERA.

42. In approximately 1993, when the Plaintiff was approximately ten (10) years old, CALDERA began sexually abusing and assaulting Plaintiff. At all times relevant and material hereto, CALDERA was over eighteen (18) years of age.

43. The acts of sexual assault and abuse perpetrated by CALDERA on the Plaintiff include, but are not limited, to: CALDERA fondling Plaintiff; CALDERA grabbing Plaintiff's penis; CALDERA masturbating in front of Plaintiff; and CALDERA forcing Plaintiff to touch CALDERA's penis for CALDERA's sexual gratification.

44. The acts of sexual assault and abuse perpetrated by CALDERA against Plaintiff, occurred approximately twenty-four (24) times over approximately four (4) years, from approximately 1993 to 1998.

45. The acts of sexual assault and abuse perpetrated by CALDERA against Plaintiff occurred on CHURCH premises, including, but not limited to: in a car in the parking lot on CHURCH premises and an office on CHURCH premises where the jerseys were located.

46. Other CYO basketball players commented amongst themselves about CALDERA's inappropriate behavior and language.

NOTICE – FORESEEABILITY

47. At all relevant times, the Defendants knew, or in the exercise of reasonable care, should have known that CALDERA had a propensity for the conduct which caused injury to Plaintiff, particularly that he had a propensity to engage in the sexual abuse of children.

48. Other SCHOOL coaches were aware that CALDERA would take individual SCHOOL and CYO basketball players alone out to dinner on "dates."

49. A parent of one of Plaintiff's childhood friends, known to the undersigned counsel, states that CALDERA always acted suspiciously, constantly surrounded himself with children,

and would often be seen driving children around the neighborhood. The parent became a coach so that CALDERA would not have access to his children.

50. Another parent to a child coached by CALDERA in the early 1990's, who is known to the undersigned counsel, states that she always saw CALDERA surrounded by children and often observed him driving children around the neighborhood. In approximately 1998, it was reported to her that CALDERA was observed to be engaging in oral sex with another adult male in a secluded area of the gym in the middle of a children's volleyball game.

51. At all relevant times, it was reasonably foreseeable to the Defendant that CALDERA would commit acts of child sexual abuse or assault on children.

52. At all relevant times, the Defendants knew or should have known that CALDERA was unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his supervision, care, and/or protection.

53. With such actual or constructive knowledge, the Defendants' acts and omissions caused Plaintiff and his parents to trust that CALDERA was safe. Defendants provided CALDERA with the opportunity to commit foreseeable acts of child sexual abuse or assault on Plaintiff.

BREACH

54. During the time Plaintiff was sexually assaulted by CALDERA, the Defendants knew or should have known that CALDERA posed a foreseeable risk of sexual assault to children with whom he would have contact and opportunity.

55. With this knowledge, the Defendants breached their duties by (i) hiring CALDERA as a basketball coach and employee who would be in regular contact with children when it knew or should have known of his sexual proclivities for children; (ii) at all relevant times,

retaining and failing to adequately supervise CALDERA, particularly in his interactions with children; and (iii) granting and maintaining CALDERA faculties on Defendants' premises without making any warning or notice of his perverse sexual proclivities to the parishioners of CHURCH, participants in the CYO program, or the those who would have contacts with CALDERA.

56. At all relevant times, the Defendants had inadequate policies and procedures to protect children from Defendants' agents with a propensity for sexually abusing and assaulting children.

57. The Defendants concealed their knowledge that CALDERA was unsafe and failed to adopt policies and procedures that would protect children and reduce the risk of child sexual abuse by employees and staff, including CALDERA.

58. As a direct and proximate cause of the foregoing breaches of duty, CALDERA sexually assaulted Plaintiff.

NATURE OF CONDUCT ALLEGED

59. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

60. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendants acted with reckless disregard for the safety

of others, including Plaintiff, or knowingly or intentionally, in concert with CALDERA, to retain CALDERA with unfettered access to children.

COUNT I- NEGLIGENCE
(against Defendant ARCHDIOCESE)

- 61. Plaintiff repeats and realleges Paragraphs 1 through 60 above.
- 62. Defendant ARCHDIOCESE was negligent.
- 63. Defendant ARCHDIOCESE owed a duty of care to Plaintiff.
- 64. Defendant ARCHDIOCESE breached the duty of care owed to Plaintiff.
- 65. Defendant ARCHDIOCESE had actual or constructive notice that Plaintiff was being sexually abused at CATHOLIC CHARITIES events and failed to protect Plaintiff or otherwise make CYO events safe for Plaintiff. Plaintiff was sexually abused after Defendant ARCHDIOCESE knew or should have known that Plaintiff was being sexually abused.
- 66. Defendant ARCHDIOCESE was negligent in the supervision of Plaintiff while at CYO events.
- 67. It was reasonably foreseeable to Defendant ARCHDIOCESE that allowing CALDERA unfettered access to children may result in the sexual abuse of the same children.
- 68. As a direct and proximate result of Defendant ARCHDIOCESE's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability to lead a normal life.
- 69. Defendant ARCHDIOCESE's acts, conduct and omissions showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

COUNT II NEGLIGENCE
(against Defendant DIOCESE)

- 70. Plaintiff repeats and realleges Paragraphs 1 through 60 above.
- 71. Defendant DIOCESE was negligent.

72. Defendant DIOCESE owed a duty of care to Plaintiff.

73. Defendant ARCHDIOCESE breached the duty of care owed to Plaintiff.

74. Defendant DIOCESE had actual or constructive notice that Plaintiff was being sexually abused at CATHOLIC CHARITIES events at CHURCH and failed to protect Plaintiff or otherwise make CYO events safe for Plaintiff. Plaintiff was sexually abused after Defendant DIOCESE knew or should have known that Plaintiff was being sexually abused.

75. Defendant DIOCESE was negligent in the supervision of Plaintiff while at CYO events.

76. It was reasonably foreseeable to Defendant DIOCESE that allowing CALDERA unfettered access to children may result in the sexual abuse of the same children.

77. As a direct and proximate result of Defendant DIOCESE's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability to lead a normal life.

78. Defendant DIOCESE's acts, conduct and omissions showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

COUNT III- NEGLIGENCE
(Against Defendant CHURCH)

79. Plaintiff repeats and realleges Paragraphs 1 through 60 above.

80. Defendant CHURCH was negligent.

81. Defendant CHURCH owed a duty of care to Plaintiff.

82. Defendant CHURCH breached the duty of care owed to Plaintiff. Defendant CHURCH having actual or constructive notice of child sex abuse perpetrated by its agents, namely CALDERA, failed to protect Plaintiff, and otherwise make church activities safe.

83. Defendant CHURCH knew or should have known that Plaintiff was being sexually abused at CHURCH and failed to terminate the perpetrators of the sexual abuse, namely CALDERA, or otherwise make CHURCH safe for Plaintiff.

84. It was reasonably foreseeable by Defendant CHURCH that, in allowing CALDERA to have unfettered and unmonitored access to children, that the children may be sexually abused.

85. Defendant CHURCH was negligent in the hiring, supervision, placement, training, and retention of CALDERA.

86. As a direct and proximate cause of Defendant CHURCH's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability to lead a normal life.

87. Defendant CHURCH's acts, conduct, and omissions showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

COUNT IV- NEGLIGENCE
(against Defendant CATHOLIC CHARITIES)

88. Plaintiff repeats and realleges Paragraphs 1 through 60 above.

89. Defendant CATHOLIC CHARITIES was negligent.

90. Defendant CATHOLIC CHARITIES owed a duty of care to Plaintiff.

91. Defendant CATHOLIC CHARITIES breached the duty of care owed to Plaintiff.

92. Defendant CATHOLIC CHARITIES had actual or constructive notice that Plaintiff was being sexually abused at CYO events and failed to protect Plaintiff or otherwise make the CYO events safe for the Plaintiff. Plaintiff was sexually abused after Defendant CATHOLIC CHARITIES knew or should have known that Plaintiff was being sexually abused at CYO events.

93. Defendant CATHOLIC CHARITIES was negligent in the supervision of Plaintiff at CYO events.

94. It was reasonably foreseeable to Defendant CATHOLIC CHARITIES that allowing CALDERA unfettered access to children may result in the sexual abuse of the same children.

95. As a direct and proximate result of Defendant CATHOLIC CHARITIES's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability to lead a normal life.

96. Defendant CATHOLIC CHARITIES's acts, conduct and omissions showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

COUNT V- NEGLIGENCE
(against Defendant CALDERA)

97. Plaintiff repeats and realleges Paragraphs 1 through 60 above.

98. Defendant CALDERA was negligent.

99. Defendant CALDERA owed a duty of care to Plaintiff.

100. Defendant CALDERA breached the duty of care owed to Plaintiff.

101. Defendant CALDERA failed to protect Plaintiff or otherwise provide a safe environment for Plaintiff by sexually abusing and assaulting Plaintiff.

102. It was reasonably foreseeable to Defendant CALDERA that having unfettered access to children may result in the sexual abuse of the same children.

103. As a direct and proximate result of Defendant CALDERA's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability to lead a normal life.

104. Defendant CALDERA's acts, conduct and omissions showed a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

DEMAND FOR JURY TRIAL

105. Plaintiff demands a jury trial in this action.

WHEREFORE, the amount in controversy exceeds the jurisdictional limits of all lower courts, and Plaintiff demands judgment against Defendants jointly and severally for compensatory damages, pain and suffering, punitive damages, attorney fees, the costs and disbursements of this action, and such other and further relief as this Court deems necessary just and proper.

Dated: New York, New York
May 17, 2021

Respectfully submitted,

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