

**GIANFORCARO LAW**  
GREGORY G. GIANFORCARO, ESQ.  
NJ ID No. 024551988  
80 South Main Street  
Phillipsburg, New Jersey 08865  
Telephone: (908) 859-2200  
Facsimile: (908) 859-3441  
gianforcarolaw@msn.com

**JEFF ANDERSON & ASSOCIATES PA**  
JEFFREY R. ANDERSON, ESQ.  
NJ ID No. 311052019  
TRUSHA P. GOFFE, ESQ.  
NJ ID No. 305772019  
RITA GRIBKO, ESQ.  
NJ ID No. 015041994  
505 Thornall Street, Suite 405  
Edison, NJ 08837  
Telephone: (609) 344-3847  
Facsimile: (651) 297-6543  
jeff@andersonadvocates.com  
trusha@andersonadvocates.com  
rita.gribko@andersonadvocates.com

*Attorneys for Plaintiff*

**JASON MICHAEL SCHACK,**  
representing one (1) plaintiff,

*Plaintiff,*

v.

**THE ROMAN CATHOLIC  
ARCHDIOCESE OF NEWARK a/k/a  
ARCHDIOCESE OF NEWARK;  
MADONNA DELLA LIBERA a/k/a  
OUR LADY OF LIBERA CHURCH;  
HOLY REDEEMER; 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 Father  
Eugene A. Fanelli; 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 - ESSEX COUNTY

: DOCKET NO.: \_\_\_\_\_

CIVIL ACTION

COMPLAINT, JURY DEMAND, AND  
DESIGNATION OF TRIAL COUNSEL

Plaintiff, JASON MICHAEL SCHACK, by and through Plaintiff's attorneys, by way of Complaint against the Defendants, 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 The Roman Catholic Archdiocese of Newark a/k/a Archdiocese of Newark (hereinafter "Archdiocese of Newark") was and continues to be 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 and conducting business in the State of New Jersey with its principal place of business at 171 Clifton Avenue, Newark, NJ 07104.
3. The Newark Diocese was established in approximately 1853 and erected to an Archdiocese in approximately 1937. At some point, a corporation was formed called the Roman Catholic Diocese of Newark, which eventually became the Roman Catholic Archdiocese of Newark, to conduct some of its affairs. The Archdiocese of Newark operates its affairs as both a corporate entity and as an organization named the Roman Catholic Archdiocese of Newark, with the Archbishop as the top official. Both of these entities and all other corporations and entities controlled by the Archbishop are included in this Complaint as being the Archdiocese of Newark. The Archbishop is the top official of the Archdiocese and is given authority over all matters within the Archdiocese as a result of his position. The Archdiocese functions as a business by engaging in numerous revenue producing activities and soliciting money from its members in exchange for its services. The Archdiocese of Newark has several programs which seek out the participation of children in the Archdiocese of Newark's activities. The Archdiocese of Newark, through its officials, has control over those activities involving children. The Archdiocese of

Newark has the power to appoint, supervise, monitor and terminate each person working with children within the Archdiocese of Newark.

4. The Archdiocese of Newark is a resident of the State of New Jersey because its principal place of business is in the State.

5. At all times material, Defendant Madonna Della Libera a/k/a Our Lady of Libera Church (“Our Lady of Libera”) was an organization authorized to conduct business in the State of New Jersey, with its principal place of business at 5808 John F. Kennedy Memorial Blvd., West New York, NJ 07093. Our Lady of Libera includes, but is not limited to, Our Lady of Libera and any other organizations and/or entities operating under the same or similar name with the same or similar principal place of business.

6. At all times material, Defendant Holy Redeemer was and continues to be an organization authorized to conduct business and conducting business in the State of New Jersey, with its principal place of business at 569 65<sup>th</sup> Street, West New York, NJ 07093. Upon information and belief, Our Lady of Libera was absorbed into Holy Redeemer in a de facto merger or series of de facto mergers. Upon information and belief, Holy Redeemer continued the missions and ministry of St. Mary’s, St. John Nepomucene, and Our Lady of Libera, and remained under the direct authority, control and province of the Archdiocese of Newark and the Archbishop of the Archdiocese of Newark after the merger(s). Upon information and belief, St. Mary’s, St. John Nepomucene, and Our Lady of Libera ceased ordinary business operations as soon as possible after the transaction(s), and Holy Redeemer assumed St. Mary’s, St. John Nepomucene, and Our Lady of Libera’s liabilities ordinarily necessary for the uninterrupted continuation of Our Lady of Libera operations and business with a continuity of management, personnel, physical location and general business operation. Holy Redeemer includes, but is not

limited to, the parish 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. Our Lady of Libera and Holy Redeemer are collectively and interchangeably referred to herein as “Our Lady of Libera.”

8. At all times material, Our Lady of Libera was and continues to be under the direct authority, control, and province of Defendant Archdiocese of Newark and the Archbishop of Defendant Archdiocese of Newark. Defendant Our Lady of Libera includes any school affiliated with Our Lady of Libera. At all times material, Our Lady of Libera School was under the direct authority, control, and province of Defendant Archdiocese of Newark and the Archbishop of Defendant Archdiocese of Newark. At all times material, Defendants Our Lady of Libera and Archdiocese of Newark owned, operated, managed, maintained, and controlled the Our Lady of Libera School.

9. The Archdiocese of Newark and Our Lady of Libera are collectively referred to as “Defendants” herein.

10. 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.

11. 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 Father Eugene A. Fanelli.

12. 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 Defendant(s), are persons whose identities are unknown to Plaintiff.

### **JURISDICTION AND VENUE**

13. This Court has jurisdiction over this action as Defendants' principal places of business are in New Jersey and because the unlawful conduct complained of herein occurred in New Jersey.

14. 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 Archdiocese of Newark. In addition, events that are relevant to this action occurred within this County.

### **FACTUAL ALLEGATIONS**

15. At all times material, Father Eugene A. Fanelli ("Fr. Fanelli") was a Roman Catholic cleric employed by the Archdiocese of Newark and Our Lady of Libera. Fr. Fanelli remained under the direct supervision, employ, and control of Defendants.

16. Fr. Fanelli was ordained a priest in approximately 1940.

17. Fr. Fanelli was assigned as administrator of Our Lady of Libera from approximately 1953 until his retirement in approximately 1993.

18. Fr. Fanelli has a public road adjacent to Our Lady of Libera named after him.

19. Defendants placed Fr. Fanelli in positions where Fr. Fanelli had access to and worked with children as an integral part of his work.

20. Plaintiff was raised in a devout Roman Catholic family and attended Our Lady of Libera in West New York in the Archdiocese of Newark. Plaintiff and Plaintiff's family came in

contact with Fr. Fanelli as an agent and representative of Defendants, and at Our Lady of Libera.

21. Plaintiff and his family were involved parishioners and/or students at Our Lady of Libera. Plaintiff's grandmother helped start Our Lady of Libera School and Plaintiff's father was a student in the first graduating class.

22. As his father before him, Plaintiff attended Our Lady of Libera School.

23. Plaintiff participated in youth activities and/or church activities at Our Lady of Libera. Plaintiff, therefore, developed great admiration, trust, reverence, and respect for the Roman Catholic Church, including Defendants and their agents, including Fr. Fanelli.

24. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on Defendants and Fr. Fanelli. Defendants had custody and/or supervision of Plaintiff and accepted the entrustment of Plaintiff and, therefore, had responsibility for Plaintiff and authority over Plaintiff.

25. From approximately 1978 to approximately 1985, when Plaintiff was approximately 7 to 14 years old, Fr. Fanelli engaged in unpermitted sexual contact with Plaintiff.

26. Fr. Fanelli first raped and sexually abused Plaintiff in the sacristy of Our Lady of Libera Church after Plaintiff received the sacrament of First Holy Communion.

27. Fr. Fanelli sexually abused Plaintiff at least 100 times, approximately two (2) to three (3) times per week over the course of approximately seven (7) years.

28. On more than one occasion, other religious aided Fr. Fanelli in the sexual assault of Plaintiff.

29. In approximately 1989, Fr. Fanelli was elevated to Monsignor.

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

31. Plaintiff's relationship to Defendants and Fr. Fanelli, as a vulnerable child, parishioner, student and participant in church activities, was one in which Plaintiff was subject to the ongoing influence of Defendants and Fr. Fanelli.

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

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

34. In approximately 2018, Plaintiff disclosed that he was sexually abused by Fr. Fanelli to his mother.

35. In response, Plaintiff's mother shared that Plaintiff's father was sexually abused as a child by Fr. Fanelli at Our Lady of Libera.

36. Upon information and belief, in 2014, the night before Plaintiff's father died by suicide, Plaintiff's father revealed to Plaintiff's mother that he had been sexually abused by Fr. Fanelli when Plaintiff's father was a child.

37. Defendants knew or should have known that Fr. Fanelli was a danger to children before Fr. Fanelli sexually assaulted Plaintiff.

38. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Fr. Fanelli was not fit to work with children. Defendants, by and through their agents,

servants, and/or employees, became aware, or should have become aware of Fr. Fanelli's propensity to commit sexual abuse and of the risk to Plaintiff's safety. At the very least, 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 Archdiocese were safe.

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 Archdiocese. At the very least, Defendants 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 participating in Catholic programs and activities within the Archdiocese.

40. Defendants knew or should have known that Defendants had numerous agents who had sexually molested children. Defendants knew or should have known that child molesters have a high rate of recidivism. Defendants knew or should have known that some of the leaders and people working in Catholic institutions within the Archdiocese were not safe and that there was a specific danger of child sex abuse for children participating in their youth programs.

41. Instead, Defendants negligently deemed that Fr. Fanelli was fit to work with children and/or that any previous problems were fixed or cured and/or that Fr. Fanelli would not sexually assault children and/or that Fr. Fanelli would not injure children.

42. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risk that Fr. Fanelli posed to Plaintiff, the risk of abuse in general in their programs, and/or the risks that their facilities posed to minor children.

43. Defendants owed a duty to Plaintiff to protect Plaintiff from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff. As a vulnerable child



participating in the programs and activities Defendants offered to minors, Plaintiff was a foreseeable victim. As a vulnerable child who Fr. Fanelli had access to through Defendants' facilities and programs, Plaintiff was a foreseeable victim.

44. Defendants also breached their duty to Plaintiff by actively maintaining and employing Fr. Fanelli in a position of power and authority through which Fr. Fanelli had access to children, including Plaintiff, and power and control over children, including Plaintiff.

45. Each Defendant breached its duties to Plaintiff. Defendants 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. Defendants' 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 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 the employees at institutions and programs within Defendants' geographical confines, failure to train parishioners within Defendants' 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 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 their institutions, programs, leaders, and people as safe, failure to train their employees properly to identify signs of child sexual abuse by fellow employees, failure by relying upon mental health professionals who claimed individuals were safe to work with children, and/or failure by relying on people who claimed that they could treat child

molesters.

46. Defendants also breached their duty to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Fr. Fanelli posed and the risks of child sexual abuse in Catholic institutions. They also failed to warn them about any of the knowledge that Defendants had about child sexual abuse.

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

48. Defendants were negligent and/or made representations to Plaintiff and Plaintiff's family during each and every year of Plaintiff's minority.

49. As a result of Defendants' 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.

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

51. Each Defendant owed Plaintiff a duty of care because each Defendant had a special relationship with Plaintiff.

52. Defendants 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 their clerics. This special relationship arose because of the high degree of vulnerability of the children entrusted to their care. As a result of this high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendants had a duty to establish measures of protection not necessary for persons who are older and better able to safeguard themselves.

53. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because each Defendant also had a special relationship with Fr. Fanelli.

54. 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 Fr. Fanelli, out as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Fr. Fanelli, to spend time with, interact with, and recruit children.

55. By accepting custody and/or supervision of the minor Plaintiff, Defendants established an *in loco parentis* relationship with Plaintiff and in so doing, owed Plaintiff a duty to protect Plaintiff from injury. Defendants, through its employees, exploited this power over Plaintiff and thereby put the minor Plaintiff at risk for sexual abuse.

56. By establishing and/or operating the Archdiocese of Newark and Our Lady of

Libera, 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, Defendants 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. Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from foreseeable dangers. Defendants had a duty to exercise the same degree of care over minors under their control as a reasonably prudent person would have exercised under similar circumstances.

57. By establishing and operating the Archdiocese of Newark and Our Lady of Libera, which offered educational programs to children and which may have included a school, and by accepting the enrollment and participation of the minor Plaintiff as a participant in those educational programs, Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from generally foreseeable dangers.

58. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because Defendants invited Plaintiff onto their property and Fr. Fanelli posed a dangerous condition on Defendants' property.

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

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

**WHEREFORE**, Plaintiff demands judgment against Defendants, jointly and/or severally, 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 TRAINING AND SUPERVISION**

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

61. At all times material, Fr. Fanelli was employed by Defendants and was under each Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Fr. Fanelli engaged in the wrongful conduct while acting in the course and scope of his employment with Defendants and/or accomplished the sexual abuse by virtue of his job-created authority.

62. Defendants had a duty, arising from their employment of Fr. Fanelli, to ensure that Fr. Fanelli did not sexually molest children.

63. Further, Defendants 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 children.

64. Defendants were negligent in the training, supervision, and instruction of their employees. Defendants 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.

65. Defendants were additionally negligent in failing to supervise, monitor, chaperone, and/or investigate Fr. Fanelli and/or in failing to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent Fr. Fanelli's sexual abuse of Plaintiff.

66. In failing to properly supervise Fr. Fanelli, and in failing to establish such training

procedures for employees and administrators, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

67. 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 Defendants, jointly and/or severally, 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 RETENTION**

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

68. At all times material, Fr. Fanelli was employed by Defendants and was under each Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein.

69. Defendants became aware or should have become aware of Fr. Fanelli's propensity for sexual abuse, and failed to take any action to remedy the problem and failed to investigate or remove Fr. Fanelli from working with children.

70. Defendants negligently retained Fr. Fanelli with knowledge of Fr. Fanelli's propensity for the type of behavior which resulted in Plaintiff's injuries in this action.

71. Defendants negligently retained Fr. Fanelli in a position where he had access to children and could foreseeably cause harm which Plaintiff would not have been subjected to had Defendants taken reasonable care.

72. In failing to timely remove Fr. Fanelli from working with children or terminate the

employment of Fr. Fanelli, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

73. 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 Defendants, jointly and/or severally, 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**

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

**JEFF ANDERSON & ASSOCIATES PA**

/s/ Jeffrey R. Anderson / Trusha P. Goffe /  
Rita Gribko  
Jeffrey R. Anderson, Esq.  
Trusha P. Goffe, Esq.  
Rita Gribko, Esq.  
Attorneys for Plaintiff

Dated: November 8, 2021

**DESIGNATION OF TRIAL COUNSEL**

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

**GIANFORCARO LAW**

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

**JEFF ANDERSON & ASSOCIATES PA**

/s/ Jeffrey R. Anderson / Trusha P. Goffe /  
Rita Gribko  
Jeffrey R. Anderson, Esq.  
Trusha P. Goffe, Esq.  
Rita Gribko, Esq.  
Attorneys for Plaintiff

Dated: November 8, 2021