

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:  BOY SCOUTS OF AMERICA and DELAWARE BSA, LLC, <sup>1</sup>  <p style="text-align: center;">Debtors.</p> <hr/> Boy Scouts of America,  <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> A.A., <i>et al.</i> , <sup>2</sup>  <p style="text-align: right;">Defendants</p>	Chapter 11  Case No. 20-10343 (LSS) (Jointly Administered)   Adv. Pro. No. 20-50527 (LSS)  RE: Adv. D.I. Nos. 54, 72
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**CREDITORS KS-DOE-1 THROUGH KS-DOE-22’S OBJECTION TO STIPULATION  
AND AGREED ORDER BY AND AMONG THE BOY SCOUTS OF AMERICA, THE  
OFFICIAL COMMITTEE SURVIVORS OF ABUSE AND THE OFFICIAL  
COMMITTEE OF UNSECURED CREDITORS EXTENDING THE TERMINATION  
DATE OF THE STANDSTILL PERIOD UNDER THE CONSENT ORDER  
GRANTING THE BSA’S MOTION FOR A PRELIMINARY INJUNCTION  
PURSUANT TO 11 U.S.C. §§ 105(A) AND 362**

COMES NOW Creditors KS-DOE-1 through KS-DOE-22 (hereinafter “KS-Does”), through their undersigned counsel, respectfully submit this Objection to the *Stipulation and Agreed Order by and Among the Boy Scouts of America, the Official Committee of Survivors of Abuse, and the Official Committee of Unsecured Creditors Extending the Termination Date of the Standstill Period under the Consent Order Pursuant to 11 U.S.C. §§ 105(A) and 362* for the reasons set forth below.

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<sup>1</sup> The Debtors in these chapter 11 cases, together with the last four digits of each Debtors’ federal tax identification number, are as follows: Boy Scouts of America (6300) and Delaware BSA, LLC (4311). The Debtors’ mailing address is 1325 W. Walnut Hill Ln., Irving, TX 75038.

<sup>2</sup> A full list of the Defendants in this adversary proceeding is included in redacted form on Exhibit A to the BSA’s Verified Complaint for Injunctive Relief [A.D.I 14-1] to protect the privacy interests of abuse victims.

**PROCEDURAL HISTORY**

1. On November 19, 2019, plaintiffs “KS-Doe-1” through “KS-Doe-22” (hereinafter “KS-Does”) commenced an action in New York Supreme County of Erie County against Holy See, State of Vatican, Diocese of Buffalo, N.Y., et. al. (hereinafter “ Non-Debtor Defendant(s)”) (NYS Supreme Court Index No. 815447/2019) (the “New York State Court Action”). The Boy Scouts of America (“hereinafter “BSA” or “Debtors” ) were included in the Defendants of the KS-Does’ civil action. Said action complained of sexual abuse, assault, false imprisonment, violations of civil Racketeering Statutes and other related civil and criminal violations brought pursuant to the enactment of the Child Victims’ Act of New York State. The action specifically alleges wrongdoing by all the entities named within the action. A copy of the complaint filed in the New York State Action is attached hereto as Exhibit A.

2. On February 18, 2020, BSA filed voluntary petitions for chapter 11 bankruptcy in the Bankruptcy Court of the District of Delaware. On the same day, BSA commenced an adversary proceeding by filing a Verified Complaint for Injunctive Relief seeking to extend the automatic stay from Bankruptcy Code § 362 to non-debtor parties, which included local councils that are independently incorporated, community and religious organizations, and individuals who were involved in scouting operations, which BSA termed “BSA Related Parties”. Moreover, BSA also filed a motion for preliminary injunction seeking entry of an order prohibiting and enjoining all plaintiffs in civil actions for sexual abuse from filing or continuing to prosecute any actions or claims arising out of involvement or connection with BSA or the aforementioned non-debtor BSA Related Parties.

3. The New York State Court Action brought by KS-Does was referenced in BSA’s complaint since the defendants included Debtor, its local council The Greater Niagara Frontier

Council #380 of the BSA, and its former scout master. KS-Does admit that two aforementioned parties are likely BSA Related Parties; however, the remainder of the civil action's Non Debtor Defendants are entirely unrelated and distinct from BSA, so the automatic stay should not be imposed upon the alleged "BSA Related Parties" except for BSA, its local council the Greater Niagara Frontier Council #380 of the BSA, and agent/scoutmaster John Gruber. KS-Does respectfully submit that those claims should be severed, and the remaining unrelated claims against the Non-Debtor Defendants should be remanded back to New York State Supreme Court.

### **SUMMARY OF FACTS**

4. The underlying New York State Court Action concerns sexual assault, rape, false imprisonment, violations of the Racketeer Influenced and Corrupt Organizations Act (RICO), violations of the New York State Debtor-Creditor Law and related claims. KS-Does claims accrued as a result of the Child Victims' Act of New York State and affords relief to victims for a limited period of time. The claims almost entirely center on the actions of the Diocese of Buffalo, its parishes, bishops and priests. Only one plaintiff of the civil action, KS-Doe-15, states a claim against BSA, its local council The Greater Niagara Frontier Council #380 of the BSA, and its former scout master John Gruber, for sexual abuse he endured when he was a minor. KS-Does are unaware of any insurance policies belonging to the Debtor which would extend to the Non-Debtor Defendants.

### **ARGUMENT**

#### **A. Stay Should Not Extend to Entirely Unrelated Non-Debtors, Who Should be Severed from the Bankruptcy so Civil Litigation can Continue**

5. KS-Does oppose and object to the relief provided in *Stipulation and Agreed Order by and Among the Boy Scouts of America, the Official Committee of Survivors of Abuse, and the Official Committee of Unsecured Creditors Extending the Termination Date of the*

*Standstill Period under the Consent Order Pursuant to 11 U.S.C. §§ 105(A) and 362* (the “Extension Order”) and also seek judicial action sever their claims against BSA, BSA’s local council the Greater Niagara Frontier Council #380 of the BSA, and agent/scoutmaster John Gruber.

6. This request for judicial action is provident and just. In general, “[o]n motion or on its own, the court may at any time, on just terms, . . . sever any claim against a party” (FRCP § 21). In the instant matter, it would be just and a provident use of this Court’s discretion to sever the claims against the BSA and its related non-debtor parties from the other claims brought against entirely distinct entities from BSA.

7. As aforementioned, in its Complaint and motion papers, BSA sought to extend the automatic stay received from its chapter 11 bankruptcy to non-debtors, “BSA Related Parties”. BSA does not detail the circumstances for how the “BSA Related Parties” are in fact related. Instead, BSA speculates that liability against any of the “BSA Related Parties” will indirectly affect BSA and their ability to reorganize in bankruptcy. However, that is not the case in *KS-Doe’s* civil action, as only one of the Plaintiff(s), *KS-Doe-15*, and three (3) of the Defendant(s), BSA, BSA’s local council the Greater Niagara Frontier Council #380 of the BSA, and agent/scoutmaster John Gruber, in said action have any resemblance of a direct or indirect connection to the BSA which could possibly affect their bankruptcy.

8. Bankruptcy judges may also hear proceedings that are “related to” cases or core proceedings under title 11 if the outcome of the litigation could conceivably have any effect on the estate being administered in bankruptcy.” (*Drexel Burnham Lambert Grp., Inc. v. Vigilant Ins. Co.*, 130 B.R. 405, 407 (S.D.N.Y. 1991)). However, in those cases, the bankruptcy judge

may not issue a final order or judgment but rather must submit findings of fact and conclusions of law to the district court judge (Schumacher v. White, 429 B.R. 400, 405 (E.D.N.Y. 2010)).

9. In general, lawsuits against the aforementioned BSA Related Parties would not be subject to the injunction as “a suit against a codefendant is not automatically stayed by the debtor's bankruptcy filing” (3 Collier on Bankruptcy §362.03[3][d] (15th ed. 2002); see Croyden Associates v. Alleco, Inc., 969 F.2d 675, 677 (8<sup>th</sup> Cir. 1992); Teachers Insurance and Annuity Ass'n v. Butler, 803 F.2d 61, 65 (2d Cir. 1986) (“It is well-established that stays pursuant to §362(a) are limited to debtors and do not encompass non-bankrupt co-defendants.”); Wedgeworth v. Fibreboard Corp., 706 F.2d 541, 544 (5th Cir. 1983); 11 U.S.C. § 1301(a) (stay applicable against “any individual that is liable on [a] debt with the debtor”)).

10. Section 105 of the Bankruptcy Code grants bankruptcy courts the statutory powers to extend Section 362's to enjoin other actions against non-debtors (A.H. Robins Co. v. Piccinin, 788 F.2d 994, 1003 (4th Cir. 1986)). In determining whether a Section 105 injunction is warranted, the following must be considered: (1) is there danger of imminent, irreparable harm to the estate or the debtor's ability to reorganize; (2) is there a reasonable likelihood of a successful reorganization; (3) balance the relative harm as between the debtor and the creditor who would be restrained; and (4) consider the public interest by balancing the public interest in successful bankruptcy reorganizations with competing societal interests” (In re United Health Care Org., 210 B.R. 228, 233 (S.D.N.Y.1997), quoting 2 Collier on Bankruptcy ¶ 105.02[2] at 105–13 (15th ed. 1997), quoting In re Monroe Well Serv., Inc., 67 B.R. 746, 752–53 (E.D.Pa. 1986); In re SDNY 19 Mad Park, LLC, No. 14-11055 (ALG), 2014 WL 4473873 (S.D.N.Y., 2014)).

11. Courts have, on occasion and based upon an analysis of the facts therein, extended the automatic stay to principals and affiliates of a debtor under Section 105 of the

Bankruptcy Code (A.H. Robins Co., Inc., supra; In re United Health Care Org., supra; In re Johns–Manville Corp., 26 B.R. 420 (S.D.N.Y. 1983); In re SDNY 19 Mad Park, LLC, supra). However, such a drastic action is warranted only when the “claim against the non-debtor will have an immediate adverse economic consequence for the debtor's estate.” (Queenie, Ltd. v. Nygard Int'l, 321 F.3d 282, 287 (2d Cir. 2003); In re SDNY 19 Mad Park, LLC, supra). An automatic stay would apply to a non-debtor when “there is such identity between the debtor and the third-party defendant that the debtor may be said to be the real party defendant ...” (A.H. Robins Co., supra). Thus, the justification for extending the stay to the non-debtors “must be consistent with the purpose of the stay itself, [which is] to suspend actions that pose a serious threat to a corporate debtor's reorganization efforts.” (In re FPSDA I, LLC, No. 10-75439, 2012 WL 6681794 (E.D.N.Y. Dec. 21, 2012), as corrected (Dec. 26, 2012), quoting In re Uni–Marts, LLC, 399 B.R. 400 (D. Del. 2009); In re SDNY 19 Mad Park, LLC, supra). This is because the awarding of an injunction staying an action against a non-debtor is considered an “extraordinary relief” (In re FPSDA I, LLC, supra; In re SDNY 19 Mad Park, LLC, supra).

12. BSA has failed to make the necessary showing herein in their papers to justify extension of the automatic stay as they have not shown a “danger of imminent, irreparable harm” as to the BSA Related Parties (In re SDNY 19 Mad Park, LLC, supra). Nevertheless, KS-Does recognize that it was likely that KS-Doe-15’s claims against BSA’s local council the Greater Niagara Frontier Council #380 of the BSA, and agent/scoutmaster John Gruber could affect BSA, and thereby the automatic stay may extend to these non-debtors. No relationship exists to the remaining Defendants though, and thereby the automatic stay should not be extended to the claims against those parties.

13. Therefore, KS-Does respectfully request to have the claims against the aforementioned related parties severed so the remainder of the plaintiffs and their claims can continue in litigation in New York State Supreme Court.

**B. Remanding Unrelated Non-Debtor Defendant(s) is Proper**

14. Absent the BSA and aforementioned related parties, the removal of this action to Federal court is unwarranted as 28 U.S.C. §§ 1334 and 1452(a), Bankruptcy Procedure § 9027, and WDNY Local Rule 81(a), upon which BSA relied upon to remove KS-Does' claims to district court, would not provide jurisdiction to retain the remainder of the Defendant(s).

15. This Court was vested with jurisdiction over the plaintiffs and defendants in KS-Does' action pursuant to the bankruptcy code statute. KS-Doe-15's claim against the chapter 11 Debtor, as well as its related parties, are requested to be severed. Absent that connection, the Court would not have a vested jurisdiction over the remainder of the KS-Does' herein.

16. As such, it is respectfully requested that the unrelated claims be remanded back to Erie County Supreme Court to continue litigation. Even if the Court has subject matter jurisdiction of the claims, which the KS- Does do not agree, this Court may remand the case to state court based on "any equitable ground" (Schumacher v. White, supra; 28 U.S.C. § 1452(b); Breakell v. 3M Co., No. 3:19-CV-583 (VAB), 2019 WL 3162490, at \*4-5 (D. Conn. July 16, 2019)). An "equitable" ground is one that is "reasonable, fair, or appropriate" (Things Remembered, Inc. v. Petrarca, 516 U.S. 124, 133, 116 S. Ct. 494, 499 (1995); In re Cathedral of the Incarnation in the Diocese of Long Island, 99 F.3d 66, 69 (2d Cir.1996); Schumacher, supra). Courts should consider the following factors when determining whether equity demands that a case removed under § 1452(a) be remanded to state court: (1) the effect on the efficient administration of the bankruptcy estate; (2) the extent to which issues of state law predominate;

(3) the difficulty or unsettled nature of the applicable state law; (4) comity; (5) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case; (6) the existence of the right to a jury trial; and (7) prejudice to the involuntarily removed defendants (Drexel, supra; Schumacher, supra; Marah Wood Prods., LLC v. Jones, 534 B.R. 465, 477 (D. Conn. 2015); Breakell, supra).

17. KS-Does herein satisfy the standards for granting a remand being a provident use of judicial authority. First, the litigation involving the unrelated non-debtor Defendant(s) would not affect the efficient administration of the BSA bankruptcy estate as a ruling against said parties would not concern BSA. Second, a majority of the claims against the unrelated, non-debtor Defendant(s) concern issues of state law which are better adjudicated at the state trial court level. Third, the New York State Court is handling multiple cases similar to that of KS-Does, and this Court would incur difficulty or unsettled nature hearing the other cases, especially when all witnesses for same are in another location. Fourth, there is no degree of relatedness of the KS-Does claims against the unrelated non-debtors, and there is remoteness of the proceeding to the main bankruptcy case based upon geography, correlation between parties and claims. Fifth, KS-Does are entitled to the right to a jury trial. Sixth, and lastly, no prejudice would be suffered to the involuntarily removed unrelated, non-debtors, nor the BSA, by remanding the matter as the proper venue and jurisdiction for said claims is in Western New York at the state trial court.

18. Moreover, the Debtor's Complaint is a non-core proceeding between non-debtor parties unrelated to the bankruptcy case (In re Annapolis Mall Motel Ltd. P'ship, 140 B.R. 105, 107 (D. Md. 1991)). Non-core proceedings correspond to "related to" proceedings and involve claims that do not arise in a bankruptcy case or arise under the Bankruptcy Code, but whose

outcome may have a “conceivable effect” on the bankruptcy case (Publicker Indus. Inc. v. United States (In re Cuyahoga Equip. Corp., 980 F.2d 110, 114 (2d Cir. 1992); Pacor, Inc. v. Higgins (In re Pacor, Inc.), 743 F.2d 984, 994 (3d Cir. 1984), overruled in part on other grounds by Things Remembered, supra). “An action is related to bankruptcy if the outcome could alter the debtor's rights, liabilities, options, or freedom of action (either positively or negatively) and which in any way impacts upon the handling and administration of the bankrupt estate” (Pacor, supra; In re AOG Entm't, Inc., 569 B.R. 563, 574 (S.D.N.Y. 2017); Celotex Corp. v. Edwards, 514 U.S. 300, 308 n.6, 115 S.Ct. 1493, 131 L.Ed.2d 403 (1995)). Here, the litigation of the KS-Does’ claims against the unrelated non-debtors would have no conceivable effect on the bankruptcy case of BSA as there is no correlation between the entities.

19. Additionally, as aforementioned, notions of comity with the state court dictate remanding the action as the lawsuit asserts causes of action based solely upon state law. “Therefore, the state court is particularly well suited to handle the issues raised” (In re Walsh, 79 B.R. 28, 29 (D. Nev. 1987); Annapolis, supra).

20. Therefore, it is proper to remand the remaining KS-Does’ claims against unrelated, non-debtors after severance of the three (3) parties; BSA, BSA’s local council the Greater Niagara Frontier Council #380 of the BSA, and agent/scoutmaster John Gruber.

### **RESERVATION OF RIGHTS**

Nothing herein should be deemed an admission with respect to this Court’s jurisdiction with respect to the non-debtor parties in the underlying New York State Court action.

**RELIEF REQUESTED**

KS-Does requests that BSA's motion to extend the stay be denied as to entirely unrelated non-debtors, and that said unrelated non-debtors be severed from the claims against BSA and the related entities, and remanding the KS-Does' unrelated claims back to New York State Supreme Court to continue in litigation, together with such other specific relief this court deems just and proper.

Dated June 2, 2020

Respectfully submitted,

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*Attorney for Creditors, KS-Does*

**EXHIBIT A**

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

KS-Doe-1;  
KS-Doe-1a;  
KS-Doe-2;  
KS-Doe-2a;  
KS-Doe-3;  
KS-Doe-3a;  
KS-Doe-4;  
KS-Doe-4a;  
KS-Doe-5;  
KS-Doe-6;  
KS-Doe-7;  
KS-Doe-7a;  
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KS-Doe-11;  
KS-Doe-11a;  
KS-Doe-12;  
KS-Doe-12a;  
KS-Doe-13;  
KS-Doe-14;  
KS-Doe-15;  
KS-Doe-16;  
KS-Doe-16a;  
KS-Doe-17;  
KS-Doe-21;  
KS-Doe-21a;  
KS-Doe-22; and  
KS-Doe.

**COMPLAINT**

Index No. \_\_\_\_\_

Plaintiff(s)

v.

Holy See, State of Vatican City - The Vatican;  
Pope Francis - The Pontiff, Bishop of Rome,  
Supreme Leader and Supervisor of the Roman  
Catholic Church, a/k/a Jorge Mario Bergoglio;  
Archbishop Timothy Dolan, Archbishop of New York;  
Archbishop Christopher Pierre, Apostolic Nuncio  
of the Holy See for the United States;  
The Foundation of the Roman Catholic Diocese of Buffalo N.Y., Inc;  
Most Reverend Richard J. Malone, a/k/a Bishop Richard J. Malone;  
Most Reverend Edward U. Kmiec, a/k/a Bishop Edward U. Kmiec;  
Most Reverend Henry J. Mansell, a/k/a/Bishop Henry J. Mansell;

St. Joseph Investment Fund, Inc.;  
George J. Eberl;  
Society of Jesus, USA-Northeast Province a/k/a The Jesuits;  
Rev. Ronald Silverio;  
Rev. Basil Ormsby, S.J.;  
Rev. Florian Jasinski;  
Rev. Joseph Persich, S.J. ;  
Rev. David Bialakowski;  
Rev. Frederick Fingerle;  
Monsignor Michael Harrington;  
Monsignor William Stanton;  
Rev. Theodore Podson;  
Rev. Nelson Kinmartin;  
Rev. Gerald Jasinski;  
Rev. Ronald Sajdak;  
Rev. Donald W. Becker;  
Rev. Norbert Orsolits;  
Rev. William White;  
Rev. John P. Hajduk;  
St. Bridgets R.C. Church;  
All Saints R.C. Church;  
The Blessed Trinity R.C. Church;  
Holy Family R.C. Church;  
St. Teresas R.C. Church;  
St. Josephats R.C. Church;  
St. John Gualberts R.C. Church;  
St. John Vianney R.C. Church;  
St. Pauls R.C. Church;  
Immaculate Conception R.C. Church;  
Canisius High School of Buffalo;  
Calasantius School of Buffalo;  
Bishop Turner High School;  
Christ the King; Seminary;  
Queen of Peace R.C. Church;  
Priest-Doe(s);  
Attorney(s) ABC and Accountant(s) XYZ;  
The Fidelis Care as a Trademark for the Centene Corporation;  
Catholic Health of WNY and its subsidiaries;  
Catholic Cemeteries of the Roman Catholic Diocese of Buffalo, Inc.;  
Christ the King Seminary Fund, Inc.;  
John Gruber, individually; and  
The Boy Scouts of America and The Greater Niagara Frontier  
Council #380 of The Boys Scouts of America.

Defendant(s)

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Plaintiff(s), KS-Doe-1; KS-Doe-1a; KS-Doe-2; KS-Doe-2a; KS-Doe-3; KS-Doe-3a; KS-Doe-4; KS-Doe-4a; KS-Doe-5; KS-Doe-6; KS-Doe-7; KS-Doe-7a; KS-Doe-8; KS-Doe-9; KS-Doe-9a; KS-Doe-10; KS-Doe-10a; KS-Doe-11; KS-Doe-11a; KS-Doe-12; KS-Doe-12a; KS-Doe-13; KS-Doe-14; KS-Doe-15; KS-Doe-16; KS-Doe-16a; KS-Doe-17; KS-Doe-21; KS-Doe-21a, KS-Doe-22, and KS-Doe by their attorneys, The Law Office of Kevin T. Stocker, Esq., P.C., bring this action against The Holy See (State of Vatican City; The Vatican); Pope Francis (The Pontiff), Bishop of Rome, Supreme Leader and Supervisor of The Roman Catholic Church, a/k/a Jorge Mario Bergoglio; Archbishop Timothy Dolan, Archbishop of New York; Archbishop Christopher Pierre, Apostolic Nuncio of The Holy See for The Unites States; The Foundation of The Roman Catholic Diocese of Buffalo, N.Y., Inc.; Most Reverend Richard J. Malone a/k/a Bishop Richard J. Malone (hereinafter “Bishop Malone”); Most Reverend Edward J. Kmiec a/k/a Bishop Edward J. Kmiec (hereinafter “Bishop Kmiec”); Most Reverend Henry J. Mansell a/k/a Bishop Henry J. Mansell; St. Joseph Investment Fund, Inc.; George J. Eberl; Society of Jesus, USA-Northeast Province a/k/a The Jesuits; Rev. Ronald Silverio; Rev. Basil Ormsby, S.J.; Rev. Florian Jasinski; Rev. Joseph Persich, S.J.; Rev. David Bialakowski; Rev. Frederick Fingerle; Monsignor Michael Harrington; Monsignor William Stanton; Rev. Theodore Podson; Rev. Nelson Kinmartin; Rev. Gerald Jasinski; Rev. Donald Sajdak; Rev. Donald W. Becker; Rev. Norbert Orsolits; Rev. William White; Rev. John P. Hajduk; St. Bridget’s R.C. Church, All Saints R.C. Church; Blessed Trinity R.C. Church; Holy Family R.C. Church; St. Teresa’s R.C. Church; St. Josephat’s R.C. Church; St. John Gualbert’s R.C. Church; St. John Vianney R. C. Church; St. Paul’s R.C. Church; Immaculate Conception R.C. Church; Queen of Peace R.C. Church; Canisius High School of Buffalo; Calasactius School of Buffalo; Bishop Turner High School; Christ The King Seminary; Priest-Doe(s); Attorney(s) ABC and Accountant(s) XYZ; The Fidelis Care as a Trade mark for The Centene Corporation; Catholic Health of WNY and its

subsidiaries; Catholic Cemeteries of the Roman Catholic Diocese of Buffalo, Inc.; Christ the King Seminary Fund, Inc.; John Gruber, individually and The Boy Scouts of America and The Greater Niagara Frontier Council #380 of The Boy Scouts of America here now allege, on personal knowledge as to each and every Plaintiff herein and on information and belief as to all other matters, as follows:

**JURISDICTION AND VENUE**

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that each of the Defendants named herein either resides in New York or conducts business within the state, and/or at times relevant conducted activities in New York that gives rise to the claims asserted.

2. Venue for this action is proper in the County of Erie pursuant to CPLR 503 in that one or more Plaintiff(s) and Defendant(s) resides and/or transacts business in this County and all or a substantial part of the events and/or omissions upon which this action is predicated occurred therein.

3. This Court has jurisdiction over Defendant, Holy See, because Defendant engaged in commercial activity in New York State, bringing them into jurisdiction by New York's long arm statute, as well as commercial activity throughout the United States of America and its territories.

4. This Court has personal jurisdiction over Defendant because criminal acts, torts, and other actionable conduct was committed by Defendant, Holy See, against Plaintiff(s) in the State of New York. The acts Plaintiff(s) complain of involve an activity for which the law provides an exception to sovereign immunity.

5. Venue is proper in the State of New York because a substantial part of the events or omissions giving rise to the claims occurred within the State of New York.

6. Further, the Court has concurrent jurisdiction concerning the federal causes of actions pled herein by Plaintiff(s).

7. This Court has both personal and subject matter jurisdiction over all matters in this action with respect to CPLR 302 (a)(1).

**PARTIES**

8. Plaintiff(s), KS-Doe-1; KS-Doe-1a; KS-Doe-2; KS-Doe-2a; KS-Doe-3; KS-Doe-3a; KS-Doe-4; KS-Doe-4a; KS-Doe-5; KS-Doe-6; KS-Doe-7; KS-Doe-7a; KS-Doe-8; KS-Doe-9; KS-Doe-9a; KS-Doe-10; KS-Doe-10a; KS-Doe-11; KS-Doe-11a; KS-Doe-12 and KS-Doe-12a; KS-Doe-13 and KS-Doe-14; KS-Doe-15; KS-Doe-16; KS-Doe-16a; KS-Doe-17; KS-Doe-21 and KS-Doe-21a, KS-Doe-22 and KS-Doe (signifying all known and unknown Plaintiff(s) who have been sexually molested by members of the Roman Catholic Church) who have resided within the County of Erie and State of New York at all times relevant to the cause(s) of action that has accrued herein.

9. Defendant Holy See (State of Vatican City; The Vatican) (hereinafter “Holy See”), at all times mentioned, is a foreign country. The Holy See is the sovereign nation located in Vatican City, Italy and is the ecclesiastical, governmental and administrative capital of The Roman Catholic Church and The Supreme Pontiff. The Holy See is the composite of the authority, jurisdiction, and sovereignty vested in the Supreme Pontiff and his delegated advisors and/or agents to direct the activities and business of the worldwide Roman Catholic Church.

10. Defendant Holy See has unqualified power over the Roman Catholic Church including each and every individual and section of the church including, but not limited to all priests, Bishops, Archbishops, Metropolitans, Cardinals, and all other church workers, as well as dioceses, archdioceses, ecclesiastical provinces, and orders.

11. Defendant Holy See directs, supervises, supports, promotes, and engages in the oversight of the sovereign nation, the organization and its employees for the purpose of the business, foreign affairs, and employees of the worldwide Roman Catholic Church, and provides religious and pastoral guidance, education and counseling to Roman Catholics worldwide in exchange for all or a portion of the revenue collected from its members.

12. Defendant Holy See engages in some of its activities through its agents, cardinals, bishops, and clergy, including religious order priests, brothers and sisters, and lay employees who work under its authority.

13. Defendant Holy See actively engages in commercial activity within the United States of America and the State of New York by collecting contributions from members. Moreover, Plaintiff(s) claims are based in part on their priests' commercial employment relationship with Defendant Holy See and its agents. The relevant employment relationship is not peculiar to a sovereign, as the employment is not part of civil service, the diplomatic corps, or the military. Nor were the Defendant(s) privy to governmental policy deliberations or engaged in legislative work.

14. Defendant Holy See also actively engages in commercial and business activity in the United States of America and The State of New York by recruiting and soliciting people to become members and contribute to the financial operation of the Roman Catholic Church, including overseeing The Society for The Propagation of The Faith in every diocese, including the Archdiocese of New York, which includes Defendant, the Diocese of Buffalo, New York.

15. Defendant Holy See is a unique entity, with an organizational structure and chain of command that mandates the Defendant Holy See and its head of state, the Supreme Pontiff have a significantly high level of involvement in the routine and day-to-day activities of its agents and instrumentalities, particularly with respect to the handling of clergy who have engaged in certain specified conduct, child sex abuse.

16. Defendant, Pope Francis, Bishop of Rome, a/k/a Jorge Mario Bergoglio (hereinafter “Pope Francis” or “Supreme Pontiff”) is named as a Defendant based upon his title and leadership position as Supreme Leader and Supervisor of the Roman Catholic Church worldwide. Pope Francis resides and has an office to transact business within Vatican City, Italy. He is further named as a Defendant based upon his ultimate authority over all Roman Catholic clergy in The United States of America.

17. The Holy See and Supreme Pontiff supervise, manage and control the operations of the Diocese of Buffalo, N.Y. (hereinafter “Diocese of Buffalo”) which is a Roman Catholic diocese established and headquartered in Buffalo, New York with its principal place of business located at 795 Main Street, Buffalo, New York. The Diocese of Buffalo is not included herein as a named party as Plaintiff(s) intend on bringing a separate action against them. The Diocese of Buffalo rules over the Roman Catholic operations in the eight (8) contiguous counties of Western New York. At all relevant times, the Diocese of Buffalo operated educational facilities/schools during the periods 1975- 2016, under the names of Bishop Turner High School, Canisius High School, Calasanctius School of Buffalo and Christ the King Seminary.

18. The Foundation of the Roman Catholic Diocese of Buffalo, N.Y., Inc. (hereinafter “Foundation”), has its principal place of business located at 795 Main Street, Buffalo New York, is an Incorporated Not-for-Profit Corporation (organization) which operates in soliciting and providing funds for the benefit of religious, educational and social enterprises. Upon information

and belief, the Foundation does not file a yearly tax return with the Internal Revenue Service based upon its designation as a religious Not-for-Profit entity. The Foundation's records, transactions, and bookkeeping practices are not subject to public review and/or inspection.

19. St. Joseph Investment Fund, Inc. (hereinafter "Investment"), has its principal office located at 795 Main Street, Buffalo New York and is an Incorporated Not-for Profit Corporation (organization) serving as a private grant-making foundation. Upon information and belief, the Investment does not file a yearly tax return with the Internal Revenue Service based upon its designation as a religious Not-for-Profit entity. Moreover, the Investment's records, transactions, and bookkeeping practices are not subject to public inspection and/or review.

20. George J. Eberle is an employee and vice-chairman of the Foundation. Defendant, George J. Eberle's principal place of business is located at 795 Main Street, Buffalo, New York.

21. Defendant, Archbishop Christopher Pierre, is the Apostolic Nuncio of The Holy See for The United States, as such he maintains a supervisory role of the Roman Catholic Church within the United States. This would include The Diocese of Buffalo, New York. He maintains offices at 3339 Massachusetts Ave, NW, Washington, DC 20008.

22. Defendant, Archbishop Timothy Dolan, is the current Archbishop of New York. As such, he maintains a supervisory role over the Roman Catholic Church for the Province of New York State of the Roman Catholic Church, as part of the Archdiocese of New York in the Roman Rite. He maintains offices at 1011 First Avenue, New York, New York 10022.

23. Defendant, Most Reverend Richard J. Malone a/k/a Bishop Richard J. Malone (hereinafter "Bishop Malone"), was appointed as the bishop of the Diocese of Buffalo on or about the 10<sup>th</sup> day of August, 2012, as such said Bishop Malone is the Supervising Cleric and Administrator of the Diocese of Buffalo commencing on August 10<sup>th</sup>, 2012 and upon information and belief retains this position and title as of the date of the instant action.

24. Defendant, Most Reverend Edward J. Kmiec a/k/a Bishop Edward J. Kmiec (hereinafter “Bishop Kmiec”), was appointed bishop of the Diocese of Buffalo on or about the 28<sup>th</sup> day of October, 2004 and served as bishop until he tendered his resignation on August 10, 2012; as such he was the Supervising Cleric and Administrator of the Diocese of Buffalo during this period.

25. Defendant, Most Reverend Henry J. Mansell a/k/a Bishop Henry J. Mansell (hereinafter “Bishop Mansell”), was appointed bishop of The Diocese of Buffalo and served in this position from 1995 through the year 2003. He was the Supervising Cleric and Administrator for “The Diocese of Buffalo” during this period.

26. Defendant, The Society of Jesus, USA- Northeast Province, a/k/a The Jesuits, is a Not-for-Profit Corporation which at relevant times conducted activities in Erie County, New York including providing services and operating Canisius High School, Bishop Turner High School, Christ the King Seminary and providing services to The Calasanctius School of Buffalo.

27. Defendant(s) Canisius High School; Bishop Turner High School; Calasanctius School of Buffalo and Christ The King Seminary are all religious, educational facilities operated, supervised and promulgated under the direction of the Diocese of Buffalo.

28. During the times relevant to the allegations set forth herein, Defendant(s) Rev. Ronald Silverio, Rev. Basil Ormsby, S.J., Rev. Florian Jasinski, Rev. Joseph Persich, S.J. , Rev. David Bialakowski, Rev. Frederick Fingerle, Monsignor Michael Harrington, Monsignor William Stanton, Rev. Theodore Podson, Rev. Nelson Kinmartin, Rev. Donald W. Becker, Rev. Ronald Sajdak, Rev. Gerald Jasinski and Rev. Norbert Orsolits, Rev. William White, Rev. John P. Hajduk, and Priest-Doe(s) (signifying all known and unknown Roman Catholic Church priest(s) who have sexually molested parishioner minors) were all employed as priests, teachers, mentors and/or spiritual advisers at the churches, schools and “parishes” named herein. Through

their positions as priests and teachers as aforesaid they were put into direct contact with the Plaintiff(s); whereby these Defendant priests used their positions of authority and trust over Plaintiff(s) to sexually abuse and injure them.

29. Defendant(s) St. Bridget's R.C. Church, Immaculate Conception R.C. Church, All Saints R.C. Church, Blessed Trinity R.C. Church, St. Teresa's R.C. Church, St. Josephat's R.C. Church, St. John Gualbert's R.C. Church, St. John Wianney R. C. Church, Holy Family R.C. Church, Immaculate Conception R.C. Church and St. Paul's R.C. Church, Queen of Peace, R.C. Church are all Roman Catholic designated places of religious worship commonly described and denoted as "parishes," which were operated at the direction and behest of the Diocese of Buffalo.

30. Defendant(s) John Gruber, The Boys Scout of America and The Greater Niagara Frontier Council #380 of The Boys Scouts of America are designated as Defendant(s) based upon the abuse and sexual misconduct perpetrated at St. Paul's R.C. Church where the Defendant, John Gruber served as a scout leader on behalf of the Boys Scouts of America. The Greater Niagara Frontier Council #380 of The Boys Scouts of America maintains an office for business at 2860 Genesee Street, Buffalo, New York 14225. The Defendant, John Gruber is a current resident of the County of Erie, State of New York. The Boys Scouts of America maintains a national office at The Boys Scouts of America National Service Center, 1325 W. Walnut Hill Lane, Irving, Texas 75038.

31. Priest-Doe(s) signifies all known and unknown Roman Catholic Church priest(s) who have sexually molested parishioner minors.

32. Defendant(s) Attorney(s) ABC and Accountant(s) XYZ are designated herein based upon their role(s) in extricating pedophile priests who were confronting allegations, charges and specific instances of criminal wrongdoing. These attorneys and accountants through their continuing efforts allowed and facilitated the continued sexual abuse of minors within the Diocese of Buffalo. Further discovery and disclosure as procedurally is provided will provide additional facts and information to confirm their complicity.

**FACTS COMMON TO ALL CLAIMS**

33. Plaintiffs KS-Doe-1 and KS-Doe-2 are brothers, and while they were both minors they attended religious and educational services at the Holy Family R.C Church of Buffalo, a church and school within and under the auspices of the Diocese of Buffalo.

34. Plaintiff, KS-Doe-1a is the spouse of Plaintiff, KS-Doe-1.

35. Plaintiff, KS-Doe-2a is the spouse of Plaintiff, KS-Doe-2.

36. Based upon information and belief, and during the times set forth herein, Rev. Ronald Silverio was employed as a priest at Defendant, Holy Family R.C. Church.

37. Defendant, Rev. Ronald Silverio, through his position at, within, or for the Defendant, Diocese of Buffalo, was placed in direct contact with Plaintiffs KS-Doe-1 and KS-Doe-2. Defendant, Rev. Ronald Silverio then used his position of authority and trust over Plaintiffs KS-Doe-1 and KS-Doe-2 to sexually abuse and injure them.

38. On numerous occasions during a two-year period while Plaintiffs KS-Doe-1 and KS-Doe-2 attended Holy Family R.C. Church they were sexually abused by the Defendant, Rev. Ronald Silverio. Rev. Ronald Silverio while acting as a priest, counselor, teacher, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendant(s) sexually assaulted, sexually abused and had sexual contact with Plaintiffs KS-Doe-1 and KS-Doe-2 all in

violation of the laws of New York State. At all times the Plaintiffs KS-Doe-1 and KS-Doe-2 were minors.

39. At all times material hereto, Rev. Ronald Silverio was under the direct supervision, employ and/or control of the Defendant(s).

40. All the Defendant(s) knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up the inappropriate and unlawful criminal conduct activities of Rev. Ronald Silverio who sexually assaulted Plaintiffs KS-Doe-1 and KS-Doe-2.

41. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Holy Family R.C. Church of Buffalo the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. Ronald Silverio, by assigning, maintaining and/or appointing him to a position with access to minors.

42. That, Plaintiff, KS-Doe-3, attended religious and educational services at St. Teresa's R.C. Church and at Canisius High School of Buffalo, a secondary school operated within and under the auspices of the Diocese of Buffalo.

43. That Plaintiff, KS-Doe-3a is the current spouse of Plaintiff, KS-Doe-3.

44. Based upon information and belief, and during times set forth herein, Rev. Basil Ormsby, S.J was employed as a priest and educational instructor/teacher at Defendant, St. Teresa's R.C. Church.

45. Defendant, Rev. Basil Ormsby, S.J. through his position as a priest and educator, was placed in direct contact with Plaintiff, KS-Doe-3. Defendant, Rev. Basil Ormsby utilized his position of authority and trust over Plaintiff KS-Doe-3, to sexually abuse and injure him.

46. At all times material hereto, Defendant, Basil Ormsby, S.J. was under the direct supervision, employ and/or control of the Defendant(s).

47. Plaintiff, KS-Doe-3 was approximately 14 years of age when he was sexually assaulted by Defendant, Basil Ormsby, S.J.

48. All the Defendant(s) knew and/or reasonably should have known, and /or knowingly condoned, and/or covered up, the inappropriate and unlawful criminal conduct activities of Rev. Basil Ormsby, S.J. who sexually assaulted Plaintiff, KS-Doe-3.

49. Defendant(s) had the responsibility to supervise and/or direct priests serving at duty to supervise, monitor, and/or direct priests serving at St. Teresa's R.C. Church, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. Basil Ormsby, S.J., by assigning, maintaining, and/or appointing him to a position which will provide him with access to minors.

50. All Defendant(s) individually, jointly and/or severally, violated various New York Statutes, including, but not limited to N.Y. Soc. Serv. Law Section 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

51. Plaintiff, KS-Doe-4 at the age of 12 years attended religious and educational instruction classes as a student at the St. Josephat's R.C. Church, a church and school operated within and under the auspices of the Diocese of Buffalo.

52. Plaintiff, KS-Doe-4a is the spouse of Plaintiff, KS-Doe-4.

53. Based upon information and belief, and during the times set forth herein, Rev. Florian Jasinski was employed as a priest/educator at Defendant, St. Josephat's R.C. Church.

54. Defendant, Rev. Florian Jasinski, through his position at, within or for the Defendant(s), was placed in direct contact with Plaintiff, KS-Doe-4, who then used his position of authority and trust over him, to sexually assault, abuse and injure her.

55. Defendant, Rev. Florian Jasinski while acting as a priest, counselor, teacher, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendant(s) sexually abused and had sexual contact with Plaintiff, KS-Doe-4, all in violation of the Laws of New York State.

56. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at St. Josephat's R.C. Church, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. Florian Jasinski, by assigning, maintaining and/or appointing him to a position with access to minors.

57. The abuse sustained by, Plaintiff, KS-Doe-4 was reported to supervisory members of the St. Josephat's R.C. Church. Notwithstanding said reporting, no action was taken. All Defendant(s), individually, jointly, and/or severally, violated various New York Statutes including, but not limited to N.Y. Soc. Serv. Law Section 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

58. As a result of the Defendant(s) contact described herein, Plaintiff, KS-Doe-4 sustained permanent mental and physical injury.

59. Plaintiff, KS-Doe-5 attended Canisius High School of Buffalo when he was approximately 14 years of age. Canisius High School of Buffalo is a High School located within the City of Buffalo and operated under the auspices of the Diocese of Buffalo.

60. Based upon information and belief, and during the times set forth herein, Rev. Joseph Persich, S.J. was employed as a priest at Defendant, Canisius High School of Buffalo. Rev. Joseph Persich was also a member of the Society of Jesus. (SJ)

61. Defendant, Rev. Joseph Persich, S.J. through his position at, within or for the Defendant(s), was placed in direct contact with Plaintiff, KS-Doe-5, who then used his position of authority and trust over Plaintiff, KS-Doe-5 to sexually assault him. Notwithstanding Plaintiff's physical resistance to Defendant, Rev. Joseph Persich, S.J., the priest's wrongful, wanton conduct continued as he sexually assaulted him. Subsequently, Plaintiff KS-Doe-5 removed himself from attending Canisius High School and transferred to another high school within the Buffalo area.

62. Defendant, Rev. Joseph Persich, S.J. while acting as a priest, counselor, teacher, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendant(s) sexually abused the Plaintiff KS-Doe-5 all in violation of the laws of New York State.

63. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Canisius High School, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. Joseph Persich, S.J., by assigning him to a position with access to minors.

64. Plaintiff, KS-Doe-5, suffered permanent physical and psychological injuries as a result of the wrongful criminal conduct of the Defendant(s).

65. Plaintiff, Charles KS-Doe-6 was the victim of sexual assault(s) perpetrated by Defendant, Rev. Ronald Sajdak.

66. Defendant, Rev. Ronald Sajdak was employed as a priest at Defendant, Christ the King Seminary of East Aurora, New York, a religious school and priest training facility located within and under the auspices of the Diocese of Buffalo.

67. That Defendant, Rev. Ronald Sajdak, through his position at, within, or for the Defendant(s), was placed in direct contact with Plaintiff, KS-Doe-6, who used his position of authority over said Plaintiff to sexual assault and abuse him.

68. Defendant, Rev. Ronald Sajdak while acting as a priest, counselor, teacher, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendant(s) sexually abused and had sexual contact with Plaintiff, KS-Doe-6 all in violation of the laws of New York State.

69. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Christ the King Seminary of Buffalo, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. Ronald Sajdak, by assigning, maintaining, and/or appointing him to a position with access to minors.

70. Plaintiff, KS-Doe-6 suffered permanent mental and physical injuries as a result of the wrongful conduct of the Defendant(s).

71. Plaintiff, KS-Doe-7 attended Defendant, All Saints R.C. Church where he received religious and educational services. All Saints R.C. Church is within and was operated under the auspices of the Diocese of Buffalo.

72. Plaintiff, KS-Doe-7a is the current spouse of Plaintiff, KS-Doe-7.

73. Based upon information and belief, and during times set forth herein, Rev. Frederick Fingerle was employed as a priest and educator, and was placed in direct contact with Plaintiff, KS-Doe-7, who then used his position of authority and trust over said Plaintiff to sexually abuse and injure him.

74. At all times material hereto, Defendant, Rev. Frederick Fingerle, was under the direct supervision, employ and /or control of the Defendant(s).

75. Plaintiff, KS-Doe-7 was approximately 5 to 6 years of age when he was sexually assaulted by Defendant, Rev. Frederick Fingerle.

76. All the Defendant(s) knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful criminal conduct activities of Rev. Frederick Fingerle who assaulted, Plaintiff, KS-Doe-7.

77. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at All Saints R.C. Church, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. Frederick Fingerle, by assigning, maintaining and/or appointing him to a position with access to minors.

78. All defendant(s) individually, jointly and/or severally, violated various New York Statutes, including, but not limited to N.Y. Sec. Serv. Law Section 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

79. Plaintiff, KS-Doe-8 at the age of 12 attended Immaculate Conception R.C. Church where he received religious and educational services. This was a “parish “ school and church within and under the auspices of the Diocese of Buffalo.

80. Based upon information and belief, and during the times set forth herein, Monsignor Michael Harrington was employed as a priest at Defendant, Immaculate Conception R.C. Church.

81. Defendant, Monsignor Michael Harrington, through his position at, within, or for the Defendant(s) Monsignor Michael Harrington was placed in direct contact with Plaintiff, KS-DOE-8, who then used his position of authority and trust over said Plaintiff to sexually assault and abuse him. Said abuse occurred at numerous locations including an overnight trip to New

York City where Defendant, Monsignor Michael Harrington, repeatedly sexually assaulted the Plaintiff, KS-Doe-8 over a period of five (5) days.

82. Defendant, Monsignor Michael Harrington sexually assaulted Plaintiff, KS-Doe-8 who was 12 years old at the time, thus being a minor.

83. The Defendant, Monsignor Michael Harrington while acting as a priest, counselor, teacher, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendant(s) sexually assaulted, abused and had sexual contact with Plaintiff, KS-DOE-8 all in violation of the laws of New York State.

84. At all times material hereto, Defendant(s) Monsignor Michael Harrington was under the direct supervision, employ and/or control of the Defendant(s).

85. All the Defendant(s) knew and/or reasonably should have known, and /or knowingly condoned, and/or covered up, the inappropriate and unlawful criminal conduct of Defendant, Monsignor Michael Harrington.

86. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Immaculate R.C. Church, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as, Defendant, Monsignor Michael Harrington, by assigning, maintaining and /or appointing him to a position with access to minors.

87. Plaintiff, KS-Doe-9, attended religious and educational services at St. Bridget's R.C. Church, a church and school within and under the auspices of the Diocese of Buffalo.

88. Plaintiff, KS-Doe-9a is the spouse of Plaintiff, KS-Doe-9.

89. Based upon information and belief, and during times set forth herein, Defendant, Monsignor William Stanton was employed as a priest and educational instructor/teacher at Defendant, St. Bridget's R.C. Church.

90. Defendant, Monsignor William Stanton, through his position as a teacher and educator, was placed in direct contact with Plaintiff, KS-DOE-9, who then used his position of authority and trust over said Plaintiff to assault and repeatedly sexually abuse her. This abuse took place while the Plaintiff, KS-DOE-9 was 8 to 14 years of age.

91. At all times material hereto, Defendant, Monsignor William Stanton, was under the direct supervision, employ and/or control of the Defendant(s).

92. All the Defendant(s) knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate criminal conduct of Defendant, Monsignor William Stanton, while he was sexually assaulting the minor, Plaintiff, KS-Doe-9.

93. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at St. Bridget's R.C. Church, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as, Defendant Monsignor William Stanton, by assigning, maintaining, and/or appointing him to a position which would provide him access to minors.

94. All Defendant(s) individually, jointly and/or severally, violated various New York Statutes, including, but not limited to N.Y. Soc. Serv. Law Section 413 and 420, which requires school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

95. Plaintiff, KS-Doe-10 attended Defendant, Calasanctius School of Buffalo when he was 13 years of age, where he received educational services. Calasanctius is a school operated within and under the auspices of the Diocese of Buffalo.

96. Plaintiff, KS-Doe-10a is the spouse of Plaintiff, KS-Doe-10.

97. Based upon information and belief, and during the times set forth herein, Rev. Theodore Podson was employed as a priest and educator at Defendant, Calasanctius School of Buffalo.

98. Defendant, Rev. Theodore Podson through his position at, within, or for the Defendant(s), used his position of authority and trust over Plaintiff, KS-Doe-10 to sexually assault and abuse him. On numerous occasions, Defendant, Theodore Podson supplied the Plaintiff KS-Doe-10 with alcoholic beverages and illicit drugs and proceeded to sexually assault said Plaintiff.

99. Defendant, Rev. Theodore Podson while acting as a priest, counselor, teacher, trustee, director, officer, employee, agent, servant and/or volunteer of the Defendant(s) sexually assaulted and abused Plaintiff, KS-Doe-10, all in contravention of New York State Law.

100. At all times material hereto, Rev. Theodore Podson was under the direct supervision, employ and/or control of the Defendant(s).

101. All the Defendant(s) knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and wrongful criminal conduct and activities of Defendant, Rev. Theodore Podson.

102. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Calasanctius School of Buffalo, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. Theodore

Podson, by assigning, maintaining and/or appointing him to a position which provides access to minors.

103. Plaintiff, KS-Doe-11, at the age of 12 to 13 years attended religious and educational services at the Defendant, Blessed Trinity R.C. Church of Buffalo, a church and school within and under the auspices of the Diocese of Buffalo.

104. Plaintiff, KS-Doe-11a is the spouse of Plaintiff, KS-Doe-11.

105. Based upon information and belief, and during the times set forth herein, Defendant, Rev. Basil Ormsby, S.J. was employed as a priest at Defendant, Blessed Trinity R.C. Church of Buffalo. Rev. Basil Ormsby, S.J. was a member of the Society of Jesus. (SJ)

106. Defendant, Rev. Basil Ormsby, S.J. through his position as an educator and priest, was placed in direct contact with Plaintiff, KS-Doe-11, who then used his position of authority and trust over the Plaintiff, KS-Doe-11 to sexually abuse and injure him.

107. At all times material thereto, Defendant, Rev. Basil Ormsby, S.J. was under the direct supervision , employ and/or control of the Defendant(s).

108. All the Defendant(s) knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate unlawful conduct and activities of Defendant, Rev. Basil Ormsby, S.J., who sexually assaulted, Plaintiff, KS-Doe-11.

109. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Defendant, Blessed Trinity R.C. Church, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Defendant, Rev. Basil Ormsby, S.J., by assigning, maintaining, and/or appointing him to a position which will provide him with access to minors.

110. All Defendant(s) individually, jointly and/or severally, violated New York Statutes, including, but not limited to N.Y. Soc. Serv. Law Section 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

111. Plaintiff, KS-Doe-12, attended religious and educational services at the Bishop Timon High School, a school within and under the auspices of the Diocese of Buffalo.

112. Plaintiff, KS-Doe-12a is the spouse of Plaintiff, KS-Doe-12.

113. Based upon information and belief, and during the times set forth herein, Defendant, Rev. Nelson Kinmartin was employed as a priest and educator at the Bishop Timon High School of Buffalo.

114. Defendant, Rev. Nelson Kinmartin, through his position as an educator and priest, was placed in direct contact with Plaintiff, KS-Doe-12, who then used his position of authority and trust over Plaintiff, KS-Doe-12 to sexually abuse him and injure him.

115. At all times material hereto, Defendant, Rev. Nelson Kinmartin, was under the direct supervision, employ and/or control of the Defendant(s).

116. All the Defendant(s) knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate unlawful conduct and activities of Defendant, Rev. Nelson Kinmartin, who sexually assaulted, Plaintiff, KS-Doe-12.

117. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Defendant, Bishop Timon High School, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Defendant, Rev. Nelson Kinmartin, by assigning, maintaining, and/or appointing him to a position which will provide him with access to minors.

118. All the Defendant(s) individually, jointly, and/or severally, violated New York Statutes, including, but not limited to N.Y. Soc. Serv. Law Sections 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

119. Plaintiff(s) KS-Doe-13 and KS-Doe-14 are former employees, assistants and volunteers of the Diocese of Buffalo.

120. Plaintiff(s) KS-Doe-13 and KS-Doe-14 bring this action as “whistleblowers” who sustained retaliation and abuse pursuant to their disclosure of the wrongful conduct transpiring within the organization known as the Diocese of Buffalo.

121. That Plaintiff(s) KS-Doe-13 and KS-Doe-14 became aware, informed and acutely knowledgeable concerning the wrongful contact being exhibited by Rev. David Bialakowski towards minors at St. St. John Gualbert’s R.C Church of Cheektowaga, New York.

122. That Plaintiff(s) KS-Doe-13 and KS-Doe-14 reported wrongful conduct to the Diocese of Buffalo, other members and clergy at St. John Gualbert’s R.C Church of Cheektowaga, New York, and other entities as was required pursuant to the NY Soc. Serv. Law Sec. 413 and 420.

123. The conduct on behalf of the Diocese of Buffalo in terminating Plaintiff(s) KS-Doe-13 and KS-Doe-14 constitutes retaliation as defined by the New York State Labor Law.

124. Plaintiff, KS-Doe-15, attended religious and educational training at St. Paul’s R.C. Church in Cheektowaga, New York. A church and school operated within and under the auspices of the Diocese of Buffalo. The Plaintiff, KS-Doe-15 was a member of the Boy Scout troop that was organized, maintained and supervised under the auspices of St. Paul’s R.C. Church and the Diocese of Buffalo.

125. Based upon information and belief, and during times set forth herein, Defendant, John Gruber, was employed as a scout leader for The Greater Niagara Council #380 of The Boys Scouts of America. This scouting troop's meetings, programs and related scouting activities were held at Defendant, St. Paul's R.C. Church in Cheektowaga, New York.

126. Defendant, John Gruber, through his position as an educator, mentor and boy scout leader, was placed in contact with Plaintiff, KS-Doe-15, who then used his position of authority and trust over the Plaintiff, KS-Doe-15 to sexually abuse and injure him.

127. At all times mentioned thereto, Defendant, John Gruber was under the direct supervision, employ and/or control of the Defendant(s), Diocese of Buffalo, St. Paul's R.C. Church, The Greater Niagara Frontier Council #380 of the Boy Scouts of America and The Boy Scouts of America.

128. All the Defendant(s) knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up the inappropriate unlawful conduct and activity of Defendant, John Gruber, who sexually assaulted, Plaintiff, KS-Doe-15.

129. Defendant(s) had the responsibility to supervise, monitor and/or direct scout leaders or other laity serving at Defendant, St. Paul's R.C. Church, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Defendant, John Gruber, by assigning, maintaining, and/or appointing him to a position which will provide him with access to minors.

130. Plaintiff, KS-Doe-16, attended religious and educational services at the St. Peter and Paul R.C. Church in Hamburg, New York a school and religious facility located within and under the auspices of the Diocese of Buffalo.

131. Plaintiff KS-Doe-16a is the spouse of Plaintiff KS-Doe-16.

132. Based upon information and belief and during times set forth herein, Defendant, Fr. Donald F. Becker, was employed as a priest at St. Peter and Paul R.C. Church in Hamburg, New York. A parish, school and church operated within and under the auspices of the “ Diocese of Buffalo.”

133. Defendant, Fr. Donald F. Becker, through his position as an educator and priest, was placed in contact with Plaintiff, KS-Doe-16, who then used his position of authority and trust over the Plaintiff, KS-Doe-16 to sexually abuse and injure him.

134. At all times material thereto, Defendant, Fr. Donald F. Becker was under the direct supervision, employ and /or control of the Defendant(s).

135. All the Defendant’s knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up the inappropriate unlawful conduct and activities of Defendant, Fr. Donald F. Becker, who sexually assaulted, Plaintiff, KS-Doe-16

136. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Defendant, St Peter and Paul R.C. Church, and the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Defendant, Fr. Donald F. Becker, by assigning, maintaining, and/or appointing him to a position which will provide him with access to minors.

137. All Defendant(s) individually, jointly and/or severally, violated New York Statutes, including, but not limited to N.Y. Soc. Serv. Law Section 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

138. Plaintiff, KS-Doe-16a brings this action as spouse who as a result of the injuries sustained by KS-Doe-16 has suffered pain and suffering include loss of consortium and society. KS-Doe-16a has sustained permanent injury as a result thereof.

139. Plaintiff, KS-Doe-17 attended religious and educational services and training at St. John Gualbert's R.C Church of Cheektowaga, New York and Queen of Peace R.C. Church of Buffalo, New York; churches and schools operated within and under the auspices of the Diocese of Buffalo.

140. Based upon information and belief, and during the times set forth herein, Defendant, Rev. Norbert Orsolits was employed as a priest at Defendant, St. John Gualbert's R.C. Church of Cheektowaga.

141. Based upon information and belief, and during times set forth herein, Defendant, Rev. Gerald Jasinski was employed as a priest at Defendant, Queen of Peace R.C. Church of Buffalo.

142. Defendant(s) Rev. Norbert Orsolits and Rev, Gerald Jasinski through their positions as priests and educators, were placed in positions which caused them to come in contact with Plaintiff, KS-Doe-17, who then used their positions of authority and trust over the Plaintiff, KS-Doe-17 to sexually abuse and injure him.

143. At all times material thereto, Defendant(s) Rev. Norbert Orsolits and Rev. Gerald Jasinski were under the direct supervision, employ and/or control of the Defendant(s).

144. All the Defendant(s) knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up the inappropriate conduct and activities of Defendant's Rev. Norbert Orsolits and Rev. Gerald Jasinski, who sexually assaulted, Plaintiff, KS-Doe-17.

145. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Defendants' St. John Gualbert's R.C. Church and Queen of Peace R.C. Church, the duty to

prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. Norbert Orsolits and Rev, Gerald Jasinski, by assigning, maintaining, and/or appointing them to a position which would provide them with access to minors.

146. All Defendant(s) individually, jointly and/or severally, violated New York Statutes, including, but not limited to N.Y. Soc. Serv. Law Section 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

147. Plaintiff, KS-Doe-21 attended religious and educational training at both St. John Vianney R. C. Church and then at the Holy Family R.C Church and School of Buffalo.

148. That KS-Doe-21a is the spouse of Plaintiff, KS-Doe-21.

149. Based upon information and belief and at all times set forth herein, Defendant Rev. William White was employed as a priest at Defendant, St. John Vianney R. C. Church, and Defendant Rev. John P. Hajduk was employed as a priest at Defendant, Holy Family R.C. Church of Buffalo.

150. Defendant Rev. William White and Defendant Rev. John P. Hajduk through their position as priests and educators, were placed in positions which caused them to come into contact with Plaintiff, KS-Doe-21, who both then used this position of authority and trust over the Plaintiff, KS-Doe-21 to sexually abuse and injure him on different occasions.

151. At all times material thereto, Defendant Rev. William White and Defendant Rev. John P. Hajduk were under the direct guidance, supervision, employ and/or control of the Defendant(s).

152. All the Defendant(s) knew and/or reasonable should have known, and/or knowingly condoned, and/or covered up the inappropriate conduct and activities of Defendant Rev. William White and Defendant Rev. John P. Hajduk, who both sexually assaulted Plaintiff, KS-Doe-21.

153. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Defendant St. John Vianney R. C. Church and Defendant Holy Family R.C. Church, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. William White and Rev. John P. Hajduk, by assigning, maintaining, and/or appointing him to a position which would provide him with access to minors.

154. All Defendant(s) individually, jointly, and/or severally violated New York Statutes, including but not limited to N.Y. Soc. Serv. Law Section 413 and 420, which require school officials to report suspected cases of child abuse and impose liability for failure to report.

155. Plaintiff, KS-Doe-22 attended religious and educational services and training at St. John Gualbert's R.C Church of Cheektowaga, New York, which operates within and under the auspices of the Diocese of Buffalo.

156. Based upon information and belief, and during the times set forth herein, Defendant, Rev. David Bialakowski was employed as a priest at Defendant, St. John Gualbert's R.C. Church of Cheektowaga.

157. Defendant Rev. David Bialakowski, through his position as a priest and educator, was placed in positions which caused him to come in contact with Plaintiff, KS-Doe-22, who then used their positions of authority and trust over the Plaintiff, KS-Doe-22 to sexually abuse and injure him.

158. At all times material thereto, Defendant Rev. David Bialakowski was under the direct supervision, employ and/or control of the Defendant(s).

159. All the Defendant(s) knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up the inappropriate conduct and activities of Defendant Rev. David Bialakowski, who sexually assaulted, Plaintiff, KS-Doe-22.

160. Defendant(s) had the duty to supervise, monitor, and/or direct priests serving at Defendant St. John Gualbert's R.C. Church, the duty to prosecute and remove those that exhibited inappropriate behavior towards minors, and specifically had a duty not refrain from covering up and perpetuating sexual offenses directed toward children by priests such as Rev. David Bialakowski, by assigning, maintaining, and/or appointing them to a position which would provide them with access to minors.

161. All Defendant(s) individually, jointly and/or severally, violated New York Statutes, including, but not limited to N.Y. Soc. Serv. Law Section 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION Intentional Sexual Crimes and Acts**

162. Plaintiff(s) repeat and realleges each and every allegation set forth in paragraphs "1" through "161" as if fully set forth herein.

163. Defendants sexually touched, abused, assaulted, and/or raped Plaintiff(s) without authorization, violating Section 130 of the New York State Penal Law.

164. Said crimes committed by the Defendant(s) herein and as a direct result of the Defendant(s) conduct herein, has caused Plaintiff(s) to suffer and will continue to suffer great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, problems sleeping, concentrating, low self-confidence, low self-respect, low self-esteem, feeling of worthlessness, feeling shameful, and embarrassed, feeling alone and isolated, losing faith in God, feeling estranged from the church, struggling with alcohol problems, battling anorexia, feeling helpless, and hopeless, problems with sexual intimacy, relationship problems, trust issues, feeling confused and angry, the feeling that the good things have been ruined, feeling sad and depressed, feeling anxiety, having panic attacks, crying, feeling dirty, used, and damaged, feeling suicidal, having flashbacks, feeling like they have taken the wrong road, feeling that their innocence was stolen, and feeling that their lives have been ruined.

165. Plaintiff(s) were prevented and will continue to be prevented from performing normal daily activities and obtaining the full enjoyment of life; has incurred and will incur in the future medical and psychological treatment together with the expenses associated therewith; and upon information and belief has incurred and will continue to incur loss income and/or loss of earning capacity as a result of the sexual abuse described herein.

**SECOND CAUSE OF ACTION**  
**Negligent Hiring/Retention**  
**Supervision/Direction**

166. Plaintiff(s) repeat and reallege each and every allegation set forth in paragraphs “1” through “165” as if fully set forth herein.

167. The sexual abuse of children by adults, including priests and teachers, is foreseeable based upon their ease of access and lack of direct oversight during the interactions.

168. By establishing, staffing, and/or operating churches, schools and places of worship and education, the Defendant(s) encouraged the enrollment and acceptance of minor child within their facilities.

169. That Defendant(s) held out their facilities to be safe environments for learning and engaging in youth activities; thus, the Defendant(s) entered into an express and/or implied duty to provide a reasonably safe environment for Plaintiff(s) and assumed the duty to protect and care for the Plaintiff(s).

170. Defendant(s) negligently hired, retained, directed, and supervised Defendant priests, when they knew or should have known that these priests posed a threat of sexual abuse and harm to children.

171. Defendant priests sexually assaulted, sexually abused and/or had sexual contact with Plaintiff(s) on Defendant(s) premises, including classrooms, churches, rectories, hotel rooms and other locations chosen by the Defendant(s).

172. Defendant(s) were put on notice of the Defendant priests improper and inappropriate actions and behavior.

173. Defendant(s) owed a duty of care to all persons, including Plaintiff(s), who were likely to come within the influence of the Defendant priests, in their roles as teachers, priests, counselors, trustees, directors, officers, employees, agents, servants and/or volunteers, and to insure that the Defendant priests did not abuse their authority as teachers, priests, counselors, trustees, directors, officers, employees, agents, servants, and /or volunteers to injure minors by sexual assault, battery, and/or abuse.

174. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of the Plaintiff(s).

175. As a direct and proximate result, Plaintiff(s) have suffered and will continue to suffer the injuries described herein.

176. By reason of the foregoing, the Defendant(s) are liable to the Plaintiff(s) jointly, severally, and/or in the alternative, for compensatory damages, and for punitive damages, together with interest and costs.

**THIRD CAUSE OF ACTION  
Negligence/Gross Negligence**

177. Plaintiff(s) repeat and reallege each and every allegation set forth in paragraphs “1” through “176” as if fully set forth herein.

178. Defendant(s) knew, should have known, or were negligent in not knowing, that Defendant priests posed a threat of sexual abuse and harm to the Plaintiff(s).

179. The acts of the Defendant priests described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of the Defendant priests employment, appointment, and/or agency with the Defendant(s).

180. Defendant(s) owed Plaintiff(s) who at relevant times herein were minors, a duty to protect them from the sexual deviancy of the Defendant, priests, both prior to and/or subsequent to the misconduct committed herein.

181. Defendant(s) willful, wanton, gross negligent and /or negligent act(s) of commission and/or omission, resulted directly and /or proximately in the damages set forth at length.

182. Defendant(s)

- a. provided improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others;
- b. failed adequately to supervise the acts of the Defendant, priests;
- c. permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon or with instrumentalities under their control; and
- d. allowed the acts of omission and/or commission and/or any or all of the allegations in this Complaint to occur.

183. At all times material hereto, with regard to the allegations contained herein, the Defendant, priests were under the direct supervision, employ and/or control of the Diocese of Buffalo.

184. At all times material hereto, defendant(s) actions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of the Plaintiff(s), which represented criminal conduct.

185. As a direct result of said conduct, Plaintiff(s) have suffered the injuries and damages described herein.

186. By reason of the foregoing, Defendant(s), jointly, severally and/or in the alternative, are liable to the Plaintiff(s) for compensatory damages, and for punitive damages, together with interest and costs.

**FOURTH CAUSE OF ACTION  
Breach of Fiduciary Duty**

187. Plaintiff(s) repeat and reallege each and every allegation set forth in paragraphs “1” through “186” as if more fully set forth herein.

188. Through their positions at the Defendant(s) facilities, Plaintiff(s) were placed in direct contact with minor children. The Defendant priests were specifically assigned to teach both lay academic subjects and religious instruction, including religious training, spiritual

guidance and/or counseling expounded by the Roman Catholic Church. It was under these circumstances that Plaintiff(s) came under the direction and control of the Defendant priests, who used their position of authority and trust over Plaintiff(s) to sexually abuse them.

189. There exists a fiduciary relationship of trust, confidence, and reliance between the Plaintiff(s) and all the Defendant(s) herein.

190. Pursuant to this fiduciary relationship, Defendant(s) assumed a duty to act in the best interests of the Plaintiff(s).

191. Defendant(s) breached their fiduciary duties to Plaintiff(s).

192. At all times material hereto, Defendant(s) actions and/or inactions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of the Plaintiff(s).

193. As a direct result of said conduct, Plaintiff(s) have suffered injuries and damages described herein.

194. By reason of the foregoing, Defendant(s), jointly, severally, and/or in the alternative, are liable to the Plaintiff for compensatory damages, and for punitive damages.

**FIFTH CAUSE OF ACTION  
Breach of Statutory Duty to Report Abuse under  
Soc. Serv. Law Section 413 and 420**

195. Plaintiff(s) repeat and realleges each and every allegation set forth in paragraphs “1” through “194” as if more fully set forth herein.

196. Pursuant to N.Y. Soc. Serv. Law Section 413 and 420, Defendant(s) had a statutory duty to report reasonable suspicion of abuse of children in their care.

197. Defendant(s) breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Defendant priests.

198. As a direct and/or indirect result of said conduct, Plaintiff(s) have suffered injuries and damages described herein.

199. By reason of the forgoing, Defendant(s), jointly, severally, and/or in the alternative, are liable to Plaintiff(s) for compensatory damages, and for punitive damages, together with interest and costs.

**SIXTH CAUSE OF ACTION  
Violation of New York Debtor-Creditor Law**

200. Plaintiff(s) repeat and reallege each and every allegation set forth in paragraphs “1” through “199” as if fully set forth herein.

201. Upon information and belief, the Defendant, Diocese of Buffalo has engaged and continues to engage in a course of conduct which seeks to diminish, reduce and hypothecate assets held by, owned and/or possessed by the Diocese of Buffalo.

202. Upon information and belief, the Diocese of Buffalo has engaged in a course of conduct in transferring, assigning and hypothecating assets in anticipation of foregoing debt obligations, engendered by lawsuits and other legal actions pending/or that will be pending, whereby the Diocese of Buffalo will be name as a Defendant, together with Attorney(s) ABC and Accountant(s) XYZ who assisted, advised and facilitated this course of conduct.

203. The act and /or acts of transferring, assigning, or hypothecating assets in anticipation of forthcoming debt obligations constitutes a fraud upon creditors and/or potential creditors as defined with N.Y. Debtor-Creditor Law Sec. 275.

204. That upon information and belief, assets having a fair market value in excess of \$90 million dollars have been transferred, assigned and /or hypothecated to other entities by the

Defendant, Diocese of Buffalo. Said entities include but are not limited to the Defendant(s) Foundation of the Roman Catholic Diocese of Buffalo, N.Y., Inc., St. Joseph Investment Fund, Inc., Catholic Cemeteries of the Roman Catholic Diocese of Buffalo, Inc., Christ the King Seminary Fund, Inc., and/or Fidelis Care as a trademark of the Centene Corporation and Catholic Health of Buffalo and its' subsidiaries.

205. That upon information and belief, Defendant(s) Bishop Kmiec, Bishop Malone and George J. Eberl were responsible for the transfer, assignment and/or hypothecation of assets of the Diocese of Buffalo. This activity was promulgated and carried out in anticipation of forthcoming debt obligations engendered as a result of legal actions filed or legal actions that would be filed whereby the Diocese of Buffalo would be named as a Defendant.

206. That upon information and belief, the Diocese of Buffalo has violated and continues to violate the New York State Debtor-Creditor Law including but not limited to Sec. 274, 275 and 276 by continuing effort to defraud creditors and potential creditors by transferring, concealing and hypothecating assets, all to the detriment of its creditors and potential creditors.

207. That by reason of the foregoing, Defendant(s) jointly, severally, and/or in the alternative, are liable to Plaintiff(s) for all assets, funds and money fraudulently transferred, assigned and /or hypothecated, including the payment of counsel fees as defined within Sec. 276-A of the New York Debtor-Creditor Law.

**SEVENTH CAUSE OF ACTION**  
**Loss of Consortium**

208. Plaintiff(s) repeat and reallege each and every allegation set forth in paragraphs "1" through "207" as if fully set forth herein.

209. Plaintiff(s) KS-Doe-1 and KS-Doe-1a; KS-Doe-2 and KS-Doe-2a; KS-Doe-3 and KS-Doe-3a; KS-Doe-4 and KS-Doe-4a; Ks-Doe-7 and KS-Doe-7a; KS-Doe-9 and KS-Doe-9a;

KS-Doe-10 and KS-10a; KS-Doe-11 and KS-Doe-11a; KS-Doe-12 and KS-Doe-12a are KS-Doe-16 and KS-Doe-16a and KS-Doe-21 and KS-Doe-21a are lawfully married as husband and wife and continue to remain so married as of the filing of the action herein.

210. That as a result of the wrongful intentional, reckless, and negligent acts, together with the criminal acts of the Defendant(s) as heretofore alleged; Plaintiff(s) were caused to suffer, and will continue to suffer in the future, loss of consortium, loss of society, affection, assistance, and conjugal fellowship, all to the detriment of their marital relationship.

211. That all of the injuries and damages were caused solely and proximately by the wrongful conduct and omissions of the Defendant(s).

212. By reason of the foregoing, Defendant(s) jointly, severally, and/or in the alternative, are liable to Plaintiff(s) for compensatory damages, and for punitive damages, together with interest and costs.

**EIGHTH CAUSE OF ACTION  
Whistle Blower Cause of Action**

213. Plaintiff(s) repeat and reallege each and every allegation set forth in paragraphs “1” through “212” as if fully set forth herein.

214. Plaintiff(s) KS-Doe-13 and KS-Doe-14 are former employees, assistants and volunteers of the Defendant, Diocese of Buffalo.

215. That Plaintiff(s) KS-Doe-13 and KS-Doe-14 became aware, informed and acutely knowledgeable concerning the wrongful contact being exhibited by members of the clergy: to wit; Priests employed by the Diocese of Buffalo.

216. New York Law as codified under The Labor and relevant sections including but not limited to N.Y. Labor Law Sec. 740; encourages employees to come forward and report violations on the part of their employers. To encourage this reporting New York State has

enacted legislation to protect employees from be retaliated against for reporting wrongful conduct.

217. That Plaintiff(s) KS-Doe-13 and KS-Doe-14 reported wrongful conduct to the Diocese of Buffalo and other entities as was required pursuant to the NY Soc. Serv. Law Sec. 413 and 420.

218. That as a result of Plaintiff(s) reporting and tendering information concerning wrongful conduct and acts, they were terminated from their employment with the Diocese of Buffalo.

219. The conduct on behalf of the Diocese of Buffalo in terminating Plaintiff(s) KS-Doe-13 and KS-Doe-14 constitutes retaliation as defined by the New York State Labor Law.

220. Plaintiff(s) have sustained pecuniary loss, compensatory loss, mental anguish and suffering as a result of the Diocese of Buffalo wrongful conduct in instituting retaliation against these plaintiff(s).

221. That all the injuries and damages were caused solely and proximately by the wrongful conduct of the Defendant(s). That the Defendant(s) have caused mental and physical pain and suffering among the Plaintiff(s). Defendant(s) Intentional/negligent infliction of emotional upset has damaged the Plaintiff(s).

222. By reason of the foregoing, Defendant(s) jointly, severally, and/or in the alternative, are liable to Plaintiff(s) for compensatory damages, and for punitive damages, together with the interest and costs.

**NINTH CAUSE OF ACTION  
The Racketeers Influenced and Corrupt Organizations Act (RICO)  
18 U.S.C. Sections 1961-1968**

**I. INTRODUCTION**

223. From Australian towns to schools in Ireland and cities across the United States, the Catholic Church has continued to be found guilty too numerous times to count of sexually abusing minors and young adults. High profile cases and harrowing testimony are reported in the media on a daily basis.

224. Recent examples include Cardinal George Pell who has been convicted of abusing two choirboys in Melbourne, Australia. Cardinal Pell had been the highest ranking Catholic in Australia and had previously served as the Treasurer for the Vatican in Rome. Thus, it could be said that he had been the third most powerful leader in the Catholic Church hierarchy. This conviction of Cardinal Pell occurred in 1996.

225. Ten days earlier, a United States Cardinal, Theodore McCarrick was relieved of his Catholic Church duties after it was determined that he was guilty of sexually abusing minors and young seminarians over a period of decades.

226. Dioceses across the United States and for that matter the world are replete with allegations, charges and convictions of priests and other members of the Catholic clergy who are guilty of sexually abusing minors.

227. Unfortunately, this conduct is not new or a product of current societal mores or attitudes. It is a course of conduct perpetrated by the Roman Catholic Clergy for decades upon decades; a course of immoral and criminal conduct that only recently has been brought to the public's attention.

228. The Catholic Church has been well aware of the criminal and immoral sexual proclivities of its priests. The Roman Catholic Church (organization) has implemented policies to function being fully aware of the sexual predators within its organization.

229. The Church Policy was one of acceptance, cover-up and continued facilitation.

230. Upon a priest or member of the Roman Catholic clergy having become the subject of repeated, complaints, allegations, and/or charges of sexual abuse, sexual assault or other forms of criminal sexuality directed at minors; the Catholic Church would commence whatever action it deemed necessary to discredit, silence and at time intimate the victim(s) and their supporters. The Church (organization) would seek to blame or fault the victim. The Roman Catholic Church would seek to brand the victim as being the “aggressor “or cast doubt on the veracity of the victim by suggesting he or she was spreading false claims and baseless innuendo about one of its members.

231. It would threaten the victim(s) with removal from the church; “excommunication,” in the parlance of the Roman Catholic Church. All in a continued effort to protect its member from any consequences from the inappropriate criminal conduct they have perpetrated on unsuspecting minors and the public.

232. In the event complaints and allegations were too numerous against a particular member of the Catholic Clergy, the Church or particular Diocese would simply reassign the priest to a different location or “ministry” as the church officials would phrase it. Thus, allowing the abusive, criminal priest to continue his criminal activity in a new location. Thus, continuing the cycle of facilitating the continued criminal conduct.

233. The Roman Catholic Church had many accomplices and eager assistants in engendering its policies. Attorneys and accountants were retained to arrange for settlement funds to be transferred, to prepare non-disclosure settlement agreements to silence victims and protect

the sexual predators they represented. These attorneys and accountants on retainer with the Roman Catholic Church would settle case after case, many times with the same priest being implicated. The facilitation was fostered from within by the Church and from the outside by hired professionals who protected, enabled and facilitated these abusive sex offenders.

234. Within the Catholic Diocese of Buffalo, New York scores of priests and diocesan personnel have been confirmed as sexual abusers of minors and young adults. This criminal conduct as in other cities and countries has been perpetrated for decades.

235. The Diocese of Buffalo has confirmed recently, only after continued media and public outcry, of confirming over 100 priests credibly accused of criminal sexual misconduct. This is a figure the Diocese of Buffalo has recently admitted to only as a consequence of the mass public outcry with the media and across the Diocese of Buffalo.”

236. However, the number of priests and personnel within The Diocese of Buffalo who are guilty of criminal sexual abuse is far greater.

237. The number of priests within the Diocese of Buffalo who have been charged, implicated and confirmed to be child sex abusers is currently at a figure that totals in excess of 175 priests.

238. It thus becomes abundantly clear the sexual abuse being perpetrated against minors and young adults is pandemic within the Roman Catholic Church and is a regular course of conduct throughout the Church Organization starting at the point of supervision, the Holy See and down through the confines and jurisdictional territory of the Diocese of Buffalo.

239. Meanwhile, cover-ups, dissemination of misinformation, shredding of documents, destroying and altering of records, together with a course of conduct that punishes “whistleblowers” and seeks retribution against them is part of the regular course of conduct of

this nefarious organization entitled, The Diocese of Buffalo, N.Y. and the Roman Catholic Church throughout its world organization overseen and commanded by the Holy See.

## **II. JURISDICTION AND VENUE**

240. Plaintiff(s) incorporate by reference all preceding paragraphs, as if fully set forth herein. Specifically, paragraphs “1” through “239”.

241. Defendant(s) are “persons” or entities within the meaning of U.S.C. Section 1961(3) who conducted the affairs of the enterprise through a pattern of racketeering activity in violation of U.S.C. 18 Section 1962.

242. The Diocese of Buffalo is an association-in-fact within the meaning of 18 U.S.C. Section 1961(4) consisting of (i) Defendant(s) including their employees and agents; (ii) the priests; (iii) accountants; (iv) attorneys and other co-conspirators as set forth herein. The Diocese of Buffalo is an ongoing business entity (enterprise) that functions as a continuing unit. The Diocese of Buffalo is an Incorporated Not-for-Profit corporation created to perform all the operations and functions of a Roman Catholic religious organization. The Diocese was used as a tool to effectuate Defendant(s) pattern of racketeering. This confirms the “Enterprise “ status of the Diocese of Buffalo.

243. The Diocese of Buffalo falls within the meaning of 18 U.S.C. Section 1961(4) and consists of “persons” associated together for the common purpose of: (i) harassing, threatening, extorting, and misleading victims’ of sexual abuse committed by priests; misleading the priests’ victims and the media to prevent the reporting, disclosure or prosecution of the priests’ sexual misconduct; and (ii) destroying, mutilating, or concealing records, documents or other evidence to prevent the use of such evidence to report or prosecute their sexual crimes, and continuing to solicit funds and donations to support and continue this nefarious organization.

244. The Diocese of Buffalo has conducted and participated in the criminal conduct through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961(1) and 1961 (5), which includes multiple instances of tampering with a witness or victim in violation of 18 U.S.C. Section 1512, and multiple instances of obtaining victim(s) for the purpose of committing or attempting, but not limited to aggravated sexual abuse, rape and sodomy, in violation of N.Y. Penal Law Sections 130-130.50 and 18 U.S.C. Sections 1590 and 1591.

245. Specific, predicate acts of racketeering include the abuse perpetrated by the Rev. Norbert Orsolits, who was employed as a priest and educator for the Diocese of Buffalo.

246. Defendant, Rev. Norbert Orsolits was Ordained as a Priest in the Roman Catholic Church in 1965. Afterwards he was assigned to St. Joseph's Church in Bliss, New York. The following year he was reassigned to St. John the Baptist in Alden, NY (1965), henceforth the assignments were as follows: St. John the Evangelist, Buffalo , NY. (1968), St. John Kanty, Buffalo, N.Y. (1969-1970), St. John Gualberts, Cheektowaga, N.Y. (1971-1973), Our Lady of Czestochowa, Cheektowaga, N.Y. (1974), St. James, Depew, N.Y. (1975-1977), St. James, Buffalo, N.Y. (1978), Awaiting Assignment (1979)(due to numerous reports of abuse surfacing), St. John Vianney, Orchard Park, N.Y. (1980-1981), St. Mary of the Angels, Olean, N.Y. (1982-1983), Sacred Heart, Portville, N.Y. (1984-1988), Absent On Leave (1989), St. Lawrence, Buffalo, N.Y. (1990), Buffalo General Hospital- Chaplain (1996-2000), St. Lawrence Church-in Residence (2011-2003) ,Retired 2004-2016-Springville, New York. 2017-2018 current whereabouts unknown.

247. Plaintiff, KS-Doe-15 was sexually abused by Rev. Orsolits while he was employed by the Diocese of Buffalo at St. John Gualbert's R.C. Church in Cheektowaga, New York.

248. Rev. Orsolits was transferred from Parish to Parish, church congregation to another on a regular basis. The transfer or reassignment was required based upon too numerous complaints and allegations of his criminal sexual abuse activity surfacing and become known to members of the parish, church or school where he was assigned by the Diocese of Buffalo. To protect Rev. Orsolits from any public outcry and to further facilitate his sexual abuse of children and minors where he conducted his, “ministry,” Defendant was reassigned to other locations within the Diocese. As heretofore listed.

249. That Defendant, Orsolits was assigned to Southdown Institute in Canada after a “ministry” or a period where the public “outcry” from his abusive criminal conduct became so widely known, the Diocese of Buffalo would send him out of the area and country to a treatment facility to treat or “quell” his pedophilia. ( at least that is the pretext that was placed in his record). When in fact the Diocese of Buffalo would have him cross interstate and foreign country jurisdictional borders to protect him from possible arrest or other criminal and civil sanctions based on his criminal actions and misdeeds.

250. Defendant, Orsolits in an interview on February 27, 2018 admitted, “ he has sexually abused probably dozens of teenage boys in the late 1970’s and early 1980’s.

251. This aforesaid criminal conduct on the part of Rev. Norbert Orsolits was known to the Diocese of Buffalo. The Diocese of Buffalo was fully aware of his continued sexual criminal misconduct.

252. The Diocese of Buffalo failed to stop or reign in Rev. Orsolits criminal conduct. On the contrary, the Diocese of Buffalo, as part of their regular and usual course of conduct or policy of their nefarious organization, would simply reassign him (as they have with other criminally abusive priests) to other locations (ministry) within the Diocese which facilitated his continued criminal conduct.

253. That Defendant, Donald F. Becker, was one of the few priests who was removed from active ministry (employment with the Diocese of Buffalo in 2003). Previously Defendant Becker served as a priest in locations which included but was not limited to at least nine (9) parishes within the Diocese of Buffalo from 1968 through 2002, including St. Mark's in Rushford, St. Mary's of the Assumption in Lancaster, St. Bonaventure in West Seneca, SS. Peter and Paul in Hamburg, Nativity of Our Lord in Orchard Park, St. Stephen's on Grand Island and St. Agatha's in Buffalo.

254. Said, Defendant, Rev. Donald F. Becker, sexual abused Plaintiff, KS-Doe-16, while Defendant, Rev. Donald F. Becker was working at St. Peter and Paul parish in Hamburg, New York.

255. Defendant, Becker was transferred on many occasions when the members of the parish or congregation where he worked (ministered) would become aware of Becker's conduct and commence complaining about his wrongful criminal behavior. The Diocese of Buffalo would then deny the allegations, falsely accuse the victim(s), seek to discredit any who complained of the Defendant's behavior, and would ultimately transfer and reassign, Becker as a part of their regular "modus operandi". In allowing the perpetrator to continue his abusive criminal conduct elsewhere. Thus, allowing the process to continue, protecting the Defendant, and facilitating his criminal conduct. All a part of the scheme that the Diocese of Buffalo perpetrated on the unknowing public for decade after decade.

256. The Diocese of Buffalo, after unstoppable public outcry and complaints removed, Defendant, Becker from its list of active priests. However, they did not punish or sanction him, they just simply asked him to retire, which in fact he did. The Diocese of Buffalo never disclosed his criminal activity, never sought to console or comfort the victims, their only concern and interest was protecting its criminal priest. (one of the hundreds)

257. The Diocese of Buffalo engaged in and affected intrastate and interstate commerce, because, inter alia, the Diocese of Buffalo transferred, assigned, and relocated priests and other employees to other schools, parishes, churches, rest homes, and medical facilities within the state of New York and outside the borders' of New York State.

258. The Diocese of Buffalo engaged in intrastate and interstate commerce concerning the investigation, slander, blacklisting, and blackmailing of victims, and/or employees (whistleblowers) who sought to thwart, hinder or stop the illicit activity carried out by the Diocese of Buffalo and its employees and priests.

259. Within the Diocese of Buffalo there was a common communication network by which co-conspirators shared information on a regular basis. The Diocese of Buffalo used the common communication network for the purpose of enabling the criminal sexual activities of the priests within the Diocese of Buffalo.

260. Each participant in the Diocese of Buffalo's racketeering "enterprise" has a systematic linkage to each other participant through organizational ties, organizational relationships, financial ties, and the continuing coordination of their activities, through the Diocese of Buffalo. The Defendant(s) and their co-conspirators functioned as a continuing unit with the purpose of furthering the illegal scheme, conduct and their common purpose.

261. The RICO Defendant(s) used the mails and wires for the transmission, delivery, and/or shipment of information consisting of substantive and financial information and data by the RICO Defendant(s) or third parties, that were foreseeably caused to be sent as a result of Defendant(s) illegal scheme:

- a. Contracts between the Diocese of Buffalo and accountants, and attorneys, who advised, counseled, and enabled the criminal RICO enterprise;
- b. Wires among the Diocese of Buffalo and organizations that assisted in facilitating the RICO enterprise;
- c. Payments to the law firms and accountants to perform their roles in concealing and facilitating the continued misconduct of the Diocese of Buffalo;

- d. Emails from the law firms and accountants to perform their roles in concealing the sexual misconduct inherent within the Diocese of Buffalo; and
- e. Emails to members and/or employees of the Diocese of Buffalo to manage the location and/or relocation of the employee (priests) or other perpetrators of the RICO organization.

262. The RICO Defendant(s) utilized the interstate mail and wires for the purpose of obtaining money or property, or concealing the transfer, assigning or hypothecating money or property, by the means of omissions, false pretenses, and misrepresentations described herein.

263. The RICO Defendant(s) also used the Internet and other electronic facilities to carry out the scheme and conceal the ongoing illicit activities.

264. The RICO Defendant(s) also communicated by U.S. mail, by interstate facsimile, and by interstate electronic mail with various other affiliates, regional offices, divisions, and other third-party entities in furtherance of the scheme.

265. The mail and wire transmissions described herein were made in furtherance of Defendant(s) scheme and common course of conduct to deceive the public about the illicit sexual conduct rampant within the Diocese of Buffalo.

266. By reason of the foregoing, the Defendant(s) are in violation of both the New York State and Federal RICO provisions and the Plaintiff(s) should be awarded damages forthwith.

**TENTH CAUSE OF ACTION  
Piercing The Corporate Veil  
Alter Ego Doctrine**

267. Repeats and reallege paragraphs “1” through “266” as if more fully restated herein.

268. The Defendant(s) promulgated, formed, and incorporated various business entities as a part of its business operations and organization.

269. That these entities were formed as Not-For -Profit Religious Corporations which would exempt them from various regulation a non-religious entity would be subject to.

270. Said, religious not-for-profit corporations were as such not required to file yearly fiscal tax returns and were not subject to regulations as other public corporations.

271. That the Defendant(s) have utilized these various entities and organizations to transfer, assign, commingle and conceal assets.

272. That the Defendant(s) corporate designations are alter egos of the Defendant.

273. That Defendant(s), The Foundation of the Roman Catholic Diocese of Buffalo, and Defendant, The St. Joseph Investment Fund, Inc., and other investment vehicles are used to transfer, assign, commingle and/or conceal assets of the Defendant, the Diocese of Buffalo.

274. That, the corporations utilized by the Defendant have been utilized for wrongdoing, fraud, and injustice to third parties.

275. Defendant(s) have failed to maintain separate and distinct identity among the corporate Defendant(s). Said corporations are but an alter ego of the Defendant(s).

276. Wherefore, the corporations of The Foundation of the Roman Catholic Diocese of Buffalo and The St. Joseph Investment Fund, Inc., and other investment vehicle owned and utilized by Defendant(s) in such a manner should be dissolved by judicial decree.

**WHEREFORE**, Plaintiff(s) demand judgment against the Defendant(s) on each cause of action as follows:

- a. Awarding compensatory damages in an amount to be proved at trial;
- b. Awarding punitive damages to the extent permitted by law;
- c. Awarding prejudgment interest to the extent permitted by law;

- d. Awarding costs and fees of this action, including attorney's fees, to the extent permitted by law; and
- e. Awarding such other and further relief as to this Court may seem just and proper.

**JURY DEMAND**

Plaintiff(s) demand a trial by jury on all issues so triable.

Dated: November 5, 2019  
Tonawanda, New York

Respectfully Submitted,



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**CERTIFICATE OF SERVICE**

I, Amy D. Brown, Esq., hereby certify that on June 2, 2020 I caused a true and correct copy of the foregoing *Objection to Stipulation and Agreed Order by and Among the Boy Scouts of America, the Official Committee of Survivors of Abuse, and the Official Committee of Unsecured Creditors Extending the Termination Date of the Standstill Period under the Consent Order Pursuant to 11 U.S.C. §§ 105(A) and 362* to be electronically filed and served via CM/ECF to all parties requesting electronic service in this case and upon the parties below via electronic mail.

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Dated: June 2, 2020

*/s/ Amy D. Brown*

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