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JANE DOE RP,

Plaintiff,

-against-

**MARIANIST PROVINCE OF THE
UNITED STATES AND MARIANIST
FAMILY CENTER,**

Defendants.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: CAPE MAY COUNTY

DOCKET NO.

CIVIL TORT ACTION

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

Plaintiff, Jane Doe RP, by and through undersigned counsel, complaining of the Defendants, upon information and belief, alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. This Complaint arises from the repeated sexual abuse of Plaintiff Jane Doe RP by Fr. John Sheehan and Br. Albert Koch during the summer of 1974, when Plaintiff was fourteen (14) years-old. These incidents occurred while Plaintiff was a volunteer camp counselor at Marianist Family Center.

2. Plaintiff Jane Doe RP is an adult resident of the State of New York and is otherwise *sui juris*. Given the nature of the allegations, Plaintiff has elected to proceed using the pseudonym Jane Doe RP in this matter because disclosure of Plaintiff’s identity would cause additional injury to the Plaintiff. Jane Doe RP’s identity has been or soon will be made known to Defendants under separate cover.

3. Defendant Marianist Province of the United States is a Province of a Roman

Catholic Religious Order and is an unincorporated nonprofit business entity licensed to and doing business in the State of New Jersey with a principal place of business at 4425 W. Pine Ave., St. Louis, Missouri 63108. Defendant Marianist Province of the United States is a successor nonprofit business entity to the unincorporated nonprofit business entities of the Marianist Province of New York and the Marianist Province of St. Louis. Hereafter, the term “Marianists” will be used to refer to the Defendant Marianist Province of the United States and its predecessors.

4. Defendant Marianist Family Center is a Roman Catholic retreat center that is owned and operated by the Marianists and an unincorporated New Jersey business entity with a principal place of business at 417 Yale Avenue, Cape May Point, New Jersey 08212.

5. At all times material, Fr. John Sheehan, was an ordained Roman Catholic Priest and a member of the Marianists. In 1974, Fr. John Sheehan was assigned to the Defendant Marianist Family Center.

6. At all times material, Fr. John J. Sheehan was approved to work as a priest within the Diocese of Camden, New Jersey by the Bishop of the Diocese of Camden and the Diocese of Camden had a duty to use reasonable care in its supervision and retention of Fr. John J. Sheehan. The Diocese of Camden also had the duty to use reasonable care to protect the minor Plaintiff from foreseeable harm. The Diocese of Camden breached these duties and Plaintiff was injured as a result. The Diocese of Camden has filed for Chapter 11 Bankruptcy protection in the United States Bankruptcy Court for the District of New Jersey, Case No. 20-21257 (JNP). Accordingly, the Diocese of Camden is not a named defendant and will not be further discussed in the current matter because to do so would violate the automatic stay.

7. At all times material, Br. Albert Koch was a religious Brother with the Marianists and, in 1974, Br. Albert Koch was assigned to the Defendant Marianist Family Center.

8. Venue is proper in this Court because many of the acts and omissions giving rise to this Complaint occurred in Cape May County.

9. Plaintiff brings this suit within the extended time period as provided for in N.J.S.A. 2A:14-2b and New York Stat. Sections 208 and 214-G of the Civil Practice Law.

10. Jurisdiction is proper because the sexually abusive acts and related negligence occurred in Cape May County and the Defendant Marianist Family Center is domiciled in Cape May County.

BACKGROUND FACTS

11. During the summer of 1974, Plaintiff was a volunteer at the Defendant Marianist Family Center in Cape May Point, New Jersey.

12. At the time, Plaintiff resided in the State of New York.

13. In order to work as a volunteer at Defendant Marianist Family Center during the summer of 1974, Plaintiff resided at the Defendant Marianist Family Center.

14. While Plaintiff resided at the Defendant Marianist Family Center, Defendants accepted custody of the 14-year-old Plaintiff, as her parents were not present to protect the Plaintiff.

15. During the summer of 1974, while Plaintiff resided at Defendant Marianist Family Center, Fr. John J. Sheehan and Br. Albert Koch repeatedly sexually abused Plaintiff.

16. At all times material, Fr. John Sheehan was an ordained Roman Catholic Priest employed by and an agent of Defendant Marianist Province of the United States and the Defendant Marianist Family Center.

17. At all times material, Br. Albert Koch was an ordained Roman Catholic Brother employed by and an agent of Defendant Marianist Province of the United States and the Defendant Marianist Family Center.

18. At all times material, Fr. John Sheehan and Br. Albert Koch remained under the direct supervision of the Defendant Marianist Province of the United States, or its predecessors.

19. At all times material, Fr. John Sheehan and Br. Albert Koch remained under the control of the Defendant Marianist Province of the United States, or its predecessors.

20. At all times relevant, Defendant Marianist Province of the United States was the legal owner, tenant and/or occupier of the Marianist Family Center.

21. By holding Fr. John Sheehan and Br. Albert Koch out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, Defendants entered into a special relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendant's undertaking the care and guidance of the then vulnerable Plaintiff, Plaintiff was uniquely vulnerable, without her parents and incapable of self-protection.

22. Furthermore, Defendants, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the Plaintiff from effectively protecting herself, and Defendants thus entered into a special relationship with Plaintiff. By holding themselves out as a safe, moral, and trusted institution to Plaintiff's parents, Defendants induced Plaintiff's parents to entrust their child to Defendants and thereby deprived Plaintiff of the protection of her family.

23. At all times material, Fr. John Sheehan's and Br. Albert Koch's sexual abuse of Plaintiff was foreseeable. The problem of clergy sexual abuse of minors is well-documented throughout the history of the Roman Catholic Church. As far back as 1051, St. Peter Damian wrote in the *Book of Gomorrah* that clergy who defiled boys should be dismissed from holy orders. (*Book of Gomorrah*, Ch. 6). Later, St. Peter Damian wrote in his *Rule of the Monastery of Compludo*, about the punishment for "A cleric or monk who seduces youths or young boys" being

public flogging, loss of tonsure and six months in jail, among other punishment. In 1143 or 1144, a professor at the University of Bologna named Gratian, known as the “Father of the Science of Canon Law,” identified in his work the *Decretum*, the sexual sin by a priest that he called *stuprum pueri*, which is the sexual use of boys by an adult male.

24. In 1961, the Vatican issued an instruction on the training of candidates for the priesthood, which was based upon the 1917 Code of Canon Law which stated:

Advancement to religious vows and ordination should be barred to those who are afflicted with evil tendencies to homosexuality or pederasty, since for them the common life and priestly ministry would constitute serious dangers.

25. This knowledge that Catholic clergy were sexually abusing minors continued through the middle ages and into recent history. In 1962, Pope John XXIII approved the publication *De Modo Procedendi in Causis Solicitationis*, a special procedural law for solicitation of sex in the confessional. This document contained prohibitions prohibiting clergy from having sex with minors under the age of sixteen. This document was distributed to every bishop and major religious superior in the world and was to be kept by them with the deepest secrecy. In addition, this document reflected the Catholic Church’s insistence on maintaining the highest degree of secrecy regarding the worst sexual crimes perpetrated by clergy.

26. In 1947, a priest named Fr. Gerald Fitzgerald founded a religious order of priests called the Servants of the Paracletes. This religious order was founded in order to assist and treat Catholic clergy who experienced mental health problems. By 1952, Fr. Fitzgerald wrote that he had already treated a handful of priests who had sexually abused minors. By 1963, the Paracletes were treating so many sexually abusive clergy that they developed a shorthand code, “code 3,” to describe the offense. By 1966, the Paracletes began specializing in treatment of pedophile Catholic

clergy.

27. As early as 1971, the issue of sexual misconduct by clergy was being discussed in the Commonwealth of Massachusetts. Bishop Bernard Flanagan, Bishop of Worcester (Massachusetts) testified that as early as February 1971, there had been discussions about sexual misconduct among priests. According to Bishop Flanagan, “I think by 1971 I had heard of other cases of this type [sic] sexual misconduct and I knew that they were taking place in other dioceses too.”

28. That same year, Dr. Conrad Baars and Dr. Anna Terruwe presented a scholarly paper titled *The Role of the Church in the Causation, Treatment and Prevention of the Crisis in the Priesthood*” to the 1971 Synod of Bishops at the Vatican and to the U.S. Conference of Catholic Bishops about psychiatric problems in Catholic clergy and how psychosexual immaturity manifested itself in heterosexual and homosexual activity.

29. In 1990, psychologist and priest, A.W. Richard Sipe, published a study involving 1,500 priests that concluded that six (6) percent of priests were sexually involved with minors.

30. In 1985, the public prosecution of a priest in Lafayette, Louisiana led to the creation of the 100-page document titled “*The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner*” by Fr. Thomas Doyle, F. Ray Mouton and Fr./Dr. Michael Peterson. This document was distributed to every Catholic Bishop and religious order ordinary in the United States. A significant portion of this document describes how significant that the sexual abuse of children by Catholic clergy had become.

31. In addition to the above, the Marianists had a number of priests and brothers who have been credibly accused of child sexual abuse. In fact, according to an investigative article appearing in the September 6, 2014 *Pittsburgh Tribune*, 157 victims have accused 31 members of

the Marianists of sexual abuse. The following are some of the examples of accusations against Marianist priests and brothers:

- a. Br. Paul Botty – In 1986, Br. Botty was sentenced to 7 ½ years in prison for sexually abusing four (4) teenage boys.
- b. Fr. Joseph B. DiPeri – Fr. DiPeri is accused of sexually abusing a student in Chaminade high school in Canoga Park, California from 1977 through 1978. Fr. DiPeri was a priest from the Archdiocese of Newark, New Jersey who was working in the Los Angeles Archdiocese
- c. Fr. Thomas J. Doyle – Fr. Doyle was accused of molesting twin brothers over a 10 year period. In 1992 the Marianists suspended Fr. Doyle. Fr. Doyle was treated at the infamous sexual offender treatment programs in New Mexico and in Maryland.
- d. Fr. Julius F. May – According to the Pennsylvania Grand Jury Report dated August 14, 2018, Fr. May was accused of abusing two former students at North Catholic High School in Pittsburgh during the 1963 – 1964 school year. Father May taught and was principal of a number of high schools located in Dayton, Ohio, Hamilton, Ohio, Chester, Pennsylvania, Brooklyn, New York and Philadelphia, Pennsylvania.
- e. Br. Frank Meder - according to the Pennsylvania grand jury report dated August 14, 2018, Br. Meder was accused of sexually assaulting a girl in the late 1950s when she was approximately eight or nine years of age. Br. Meder was also accused by four boys of sexual abuse when Br. Meder was at a teacher at North Catholic high school in Pittsburgh, Pennsylvania between 1953 and the mid-1960s.
- f. Br. Louis Meinhardt – Br. Meinhardt has been accused by as many as 15 – 16 students at Chaminade College Prep School in St. Louis, Missouri of sexual abuse when

Br. Meinhardt was a teacher there.

g. Br. John Woulfe – Br. Woulfe has been accused by as many as 15 – 16 students at Chaminade College Prep School in St. Louis, Missouri of sexual abuse when Br. Meinhardt was a teacher there.

h. Br. William Mueller – Br. Mueller has been accused of sexual abuse by at least 40 students in Missouri, Colorado and Texas in the 1960's and 1970's.

32. Defendants allowed Fr. John Sheehan and Br. Albert Koch to have unsupervised and unlimited access to the minor Plaintiff, at Marianist Family Center in Cape May Point, New Jersey, located at the time within the Marianist Province of the United States, or its predecessors.

33. Upon information and belief, before Plaintiff was sexually abused by Fr. John Sheehan and Br. Albert Koch, Defendants had actual or constructive knowledge of material facts regarding Fr. John Sheehan and Br. Albert Koch's sexual misconduct, impulses, and behavior.

34. Plaintiff was raised in a devout Roman Catholic family, regularly celebrated mass, received the sacraments, and participated in church-related activities. Plaintiff, therefore, developed great admiration, trust, reverence, and respect for the Roman Catholic Church and its agents, the Marianist Province of the United States and its agents, including Fr. John Sheehan and Br. Albert Koch.

35. Defendants held Fr. John Sheehan out as a qualified Roman Catholic priest, and undertook the education, religious instruction, and spiritual and emotional guidance of Plaintiff. The Archbishop/Bishop exercised a direct role over Plaintiff. Accordingly, Plaintiff placed trust in Defendants so that Defendants and their agents gained superiority and influence over Plaintiff. Defendants entered into a special relationship with the Plaintiff and her family.

36. Defendants held Br. Albert Koch out as a qualified Roman Catholic brother, and

undertook the education, religious instruction, and spiritual and emotional guidance of Plaintiff. The Provincial for the Marianists exercised a direct role over Plaintiff. Accordingly, Plaintiff placed trust in Defendants so that Defendants and their agents gained superiority and influence over Plaintiff. Defendants entered into a special relationship with the Plaintiff and her family.

**COUNT 1 - NEGLIGENCE AGAINST THE DEFENDANT MARIANISTS AND
DEFENDANT MARIANIST FAMILY CENTER**

37. Plaintiff realleges, incorporates and restates all previous paragraphs as if set forth fully herein.

38. At all material times, Defendants Marianist Province of the United States and Marianist Family Center, by and through their agents, managers, employees, and directors owed a duty to Plaintiff to use reasonable care to protect her safety, care, well-being and health while she was under the care, custody or in the presence of the Defendants. These duties include the use of reasonable care in the supervision of the minor Plaintiff while she was residing at the Defendant Marianist Family Center and while minor Plaintiff was interacting with Fr. John Sheehan and Br. Albert Koch. These duties also encompassed the use of reasonable care in the retention and supervision of Fr. John Sheehan and Br. Albert Koch and otherwise providing a safe environment for children.

39. Defendants owed Plaintiff a duty of reasonable care because it assumed duties owed to Plaintiff and had superior knowledge about the risk that Fr. John Sheehan and Br. Albert Koch posed to Plaintiff, the risk of abuse in general in its programs, and/or the risks that their facilities posed to minor children. Defendants had the duty to protect the moral purity of Plaintiff and other Roman Catholic children within the Marianist Province of the United States.

40. Defendants owed Plaintiff a duty of reasonable care because they assumed that duty and because they solicited youth and parents for participation in its youth programs.

41. Defendants owed Plaintiff a duty of reasonable care because they undertook custody of minor children, including Plaintiff.

42. Defendants owed Plaintiff a duty of reasonable care because they promoted its facilities and programs as being safe for children.

43. Defendants owed Plaintiff a duty of reasonable care because they held out its agents including Fr. John Sheehan and Br. Albert Koch as safe to work with children.

44. Defendants owed Plaintiff a duty of reasonable care because they encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Fr. John Sheehan and Br. Albert Koch, to spend time with, interact with, and recruit children.

45. Defendants had a duty to Plaintiff to protect her from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff.

46. Defendants entered into a special relationship with Plaintiff when it accepted custody of the minor Plaintiff and allowed her to reside at the Defendant Family Center during the summer of 1974, giving rise to the duty of the Defendants to protect the minor Plaintiff from foreseeable harm.

47. Defendants breached their duties to Plaintiff by failing to use reasonable care to protect her from sexual abuse by Fr. John J. Sheehan and Br. Albert Koch.

48. Defendants breached their duties by exposing Plaintiff to pedophiles.

49. Defendants breached their duties by exposing Plaintiff to a priest and brother Defendants knew or should have known were pedophiles.

50. Defendants breached their duties by recruiting, hiring, and maintaining Fr. John Sheehan and Br. Albert Koch in a position of authority over children.

51. Defendants breached their duties by exposing Fr. John Sheehan and Br. Albert

Koch to children.

52. Defendants breached their duties by leaving Fr. John Sheehan and Br. Albert Koch alone with children unsupervised.

53. Defendants breached their duties by inducing Plaintiff and her parents to entrust Plaintiff to Fr. John Sheehan and Br. Albert Koch.

54. Defendants breached their duties by failing to follow policies and procedures designed to prevent child sex abuse and/or failing to implement sufficient policies and procedures to prevent child sex abuse.

55. Defendants breached their duties by failing to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working.

56. Defendants breached their duties by failing to adequately inform families and children of the known risks of child sex abuse within the Marianist Province of the United States.

57. Defendants breached their duties by holding out their employees and agents, including Fr. John Sheehan and Br. Albert Koch, as safe and wholesome for children to be with.

58. Defendants breached their duties by failing to investigate risks of child molestation.

59. Defendants breached their duties by failing to properly train the workers at institutions and programs within Defendants' geographical confines.

60. Defendants breached their duties by failing to have any outside agency test their safety procedures.

61. Defendants breached their duties by failing to protect the children in their programs from child sex abuse; failing to adhere to the applicable standard of care for child safety.

62. Defendants breached their duties by failing to investigate the amount and type of information necessary to represent the institutions, programs, and leaders and people as safe.

63. Defendants breached their duties by failing to respond to and/or investigate information of improper conduct of employee or agent with children, including Fr. John Sheehan and Br. Albert Koch.

64. Defendants breached their duties by failing to properly train their employees to identify signs of child molestation by fellow employees.

65. Defendants breached their duty to use ordinary care in determining whether their facilities were safe and/or to determine whether they had sufficient information to represent their facilities as safe.

66. Defendants breached their duty of care by recruiting, hiring, and maintaining Fr. John Sheehan and Br. Albert Koch at their facilities.

67. Defendants breached their duty of care by maintaining a dangerous condition on the premises of their facilities (i.e., a priest Defendants knew or should have known posed a risk of pedophilic harm to children).

68. Defendants breached their duty of care by holding out their facilities as a safe and moral place for children, which they were not.

69. Defendants breached their duty of care by failing to have sufficient policies and procedures to prevent abuse at their facilities.

70. Defendants breached their duty of care by failing to investigate risks at their facilities.

71. Defendants breached their duty of care by failing to properly train the workers at their facilities.

72. Defendants breached their duty of care by failing to investigate the amount and type of information necessary to represent their facilities as safe.

73. Defendants breached their duty of care by and failing to train their employees properly to identify signs of child molestation by fellow employees.

74. Defendants breached their duties to Plaintiff by holding out clergy members, including Fr. John Sheehan and Br. Albert Koch, as safe, moral, and trustworthy people and by failing to warn Plaintiff and her family of the risk that Fr. John Sheehan and Br. Albert Koch posed and the known risks of child sexual abuse by clerics in general.

75. Defendants also failed to warn Plaintiff about any of the knowledge that the Defendants had about child sex abuse perpetrated by clergy or Fr. John Sheehan and Br. Albert Koch.

76. Defendants further breached their duties by hiding a pedophile and engaging in a cover-up of abuse perpetrated by Fr. John Sheehan and Br. Albert Koch.

77. Defendants knew or should have known that some of the leaders and people working at Catholic institutions within the Marianist Province of the United States were not safe for children.

78. Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Catholic institutions within the Marianist Province of the United States were safe around children.

79. Defendants knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Marianist Province of the United States.

80. Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Marianist Province of the United States.

81. Defendants knew or should have known that they had other agents who had sexually molested children. Defendants knew or should have known that child molesters have a high rate of recidivism. Defendants knew or should have known that there was a specific danger of child sex abuse for children participating in Defendants' youth programs.

82. Defendants held their leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to their programs, schools, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe for children/youth.

83. Defendants made negligent representations to Plaintiff and her family during each and every year of her minority. Plaintiff and/or her family relied upon these representations, which resulted in Plaintiff being put in a vulnerable situation with Fr. John Sheehan and Br. Albert Koch who harmed her.

84. In approximately 1974, when Plaintiff was approximately 14 years old, Plaintiff was a volunteer at Marianist Family Center. At about this same time, Fr. John Sheehan and Br. Albert Koch sexually abused Plaintiff.

85. Fr. John Sheehan and Br. Albert Koch engaged in unpermitted, harmful, and offensive sexual contact with the Plaintiff on the physical premises of and around Marianist Family Center. Fr. John Sheehan and Br. Albert Koch sexually assaulted Plaintiff when Plaintiff was a minor.

86. Defendants allowed Fr. John Sheehan and Br. Albert Koch to have unsupervised and unlimited access to young children at Marianist Family Center located at the time within the Marianist Province of the United States.

87. At all times material, Fr. John Sheehan was on duty as a priest 24 hours per day, 7 days per week.

88. At all times material, Br. Albert Koch was on duty as a brother 24 hours per day, 7 days per week.

89. At all times material, Defendants had the right to control the means and manner of Fr. John Sheehan and Br. Albert Koch's performance.

90. At all times material, Defendants paid Fr. John Sheehan and Br. Albert Koch's salary.

91. At all times material, Defendants paid for Fr. John Sheehan and Br. Albert Koch's health insurance and other benefits.

92. At all times material, Defendants furnished an office and other materials, supplies, and tools required for Fr. John Sheehan and Br. Albert Koch to perform in their positions as a priest and a brother.

93. At all times material, Defendants controlled the premises where Fr. John Sheehan and Br. Albert Koch performed as a priest and a brother.

94. At all times material, Defendants had the power to terminate the employment of Fr. John Sheehan and Br. Albert Koch.

95. Upon information and belief, before Plaintiff was sexually abused by Fr. John Sheehan and Br. Albert Koch, Defendants had actual or constructive knowledge of material facts regarding Fr. John Sheehan and Br. Albert Koch's sexual misconduct, impulses, and behavior, but failed to act on that knowledge and exposed Plaintiff as a child to Fr. John Sheehan and Br. Albert Koch, thereby increasing the likelihood that Plaintiff would be harmed.

96. As a direct result of Defendants' negligence, breached duties, the sexual abuse,

sexual exploitation, and Defendants' conduct, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation and psychological injuries, was prevented and will continue to be prevented from performing her normal daily activities and obtaining the full enjoyment of life, has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling all to this Plaintiff's damage in excess of the jurisdiction of all lower courts.

**COUNT 2 - RESPONDEAT SUPERIOR/VICARIOUS LIABILITY AGAINST
THE DEFENDANT MARIANISTS AND DEFENDANT MARIANIST FAMILY
CENTER**

97. Plaintiff realleges, incorporates, and restates all previous paragraphs as if set forth fully herein.

98. Among other duties, Defendants employed Fr. John Sheehan and Br. Albert Koch to operate programs, including youth, altar boy and spiritual counseling programs at Marianist Family Center.

99. Defendants created a master-servant relationship with Fr. John Sheehan and Br. Albert Koch, employing him to interact and supervise children participating in programs at Marianist Family Center.

100. The unwanted contact by Fr. John Sheehan and Br. Albert Koch upon Plaintiff occurred during their regular working hours and at the place of their employment with Defendants while performing duties of a priest and a brother on behalf of his employers.

101. The sexual contact by Fr. John Sheehan and Br. Albert Koch occurred in the course and scope of their employment with Defendants.

102. The sexual contact by Fr. John Sheehan and Br. Albert Koch occurred when they

purported to act on behalf of the Defendants, upon which the Plaintiff and her family relied.

103. The sexual contact by Fr. John Sheehan and Br. Albert Koch was generally foreseeable to Defendants.

104. The sexual contact by Fr. John Sheehan and Br. Albert Koch was closely connected to what they were employed to do as a priest and a brother with Defendants, and/or was otherwise naturally incidental to his job duties.

105. Fr. John Sheehan and Br. Albert Koch's conduct was motivated, at least in part, by a desire to serve their employer's business interests or otherwise meet the objectives of their employment, however misguided.

106. Alternatively, Fr. John Sheehan and Br. Albert Koch's conduct constituted an authorized, minor deviation from their employment that was authorized and/or ratified by Defendants.

107. As a direct and proximate result of Fr. John Sheehan and Br. Albert Koch's conduct, Plaintiff has suffered damages for which his employer is now liable.

**COUNT 3 - NEGLIGENCE RETENTION AND SUPERVISION AGAINST THE
DEFENDANT MARIANISTS AND DEFENDANT MARIANIST FAMILY CENTER**

108. Plaintiff realleges, incorporates, and restates all previous paragraphs as if set forth fully herein.

109. Defendants had a duty to use reasonable care in supervising and retaining their employees.

110. Defendants had a duty to not retain an employee who was unfit for the position to which the employee was assigned.

111. Prior to the sexual misconduct perpetrated by Fr. John Sheehan and Br. Albert Koch upon Plaintiff, Defendants Marianist Province of the United States and Marianist Family Center

knew, or in the exercise of reasonable care, should have known, of the general problem of Catholic clergy engaging in sexual misconduct with children who were in Marianist Province of the United States and Marianist Family Center programs.

112. Prior to the sexual misconduct perpetrated by Fr. John Sheehan and Br. Albert Koch upon Plaintiff, Defendants Marianist Province of the United States and Marianist Family Center knew, or in the exercise of reasonable care, should have known, that Fr. John Sheehan and Br. Albert Koch were unfit for the duties assigned to them, that they did not exhibit appropriate behavior with children, and otherwise posed a risk of perpetrating unwanted sexual contact upon children.

113. Given actual or constructive knowledge of Fr. John Sheehan and Br. Albert Koch's dangerous propensities specifically, the Defendants had a duty to act reasonably in all decisions relating to their supervision, and retention as employees.

114. Defendants failed to exercise reasonable care in one or more of their decisions to supervise and retain Fr. John Sheehan and Br. Albert Koch and therefore exposed Plaintiff to an unreasonable risk of harm.

115. Defendants Marianist Province of the United States and Marianist Family Center affirmed and ratified Fr. John Sheehan and Br. Albert Koch's misconduct with Plaintiff. Given the actual and constructive knowledge of the likelihood that Fr. John Sheehan and Br. Albert Koch and/or other clergy would engage children in unwanted sexual contact, the unwanted sexual contact of Plaintiff was reasonably foreseeable to Defendants Marianist Province of the United States and Marianist Family Center.

116. Defendants Marianist Province of the United States and Marianist Family Center and their agents had superior knowledge of the likelihood that Fr. John Sheehan and Br. Albert

Koch would engage in unwanted sexual contact with children that they encountered in their position as a priest and a brother and had a duty to take precautions to lessen the risk that Plaintiff would be the victim of unwanted sexual contact.

117. At all relevant times, Defendants Marianist Province of the United States' and Marianist Family Center's acts and omissions created an environment which fostered unwanted sexual contact and exploitation against the people it had a duty to protect, including Plaintiff.

118. At all relevant times, Defendants had inadequate policies and procedures to protect children entrusted to their care and protection, including Plaintiff, which substantially contributed to the creation of a dangerous environment.

119. As a direct and proximate result of the negligence of Defendants, Plaintiff suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life, and has incurred and/or will incur costs for treatment and will continue to do so in the future. These injuries are permanent and ongoing in nature.

**COUNT 4 - NEGLIGENCE/PREMISES LIABILITY AGAINST DEFENDANT
MARIANISTS AND DEFENDANT MARIANIST FAMILY CENTER**

120. Plaintiff realleges, incorporates, and restates all previous paragraphs as if set forth fully herein.

121. Plaintiff was a business invitee of Defendants when Fr. John Sheehan and Br. Albert Koch engaged her in unwanted sexual contact.

122. Defendants owed Plaintiff a duty to protect her from dangerous conditions on their premises that they knew about, or in the exercise of reasonable care could have discovered.

123. Defendants owed Plaintiff a duty to provide a reasonably safe environment where she would be free from the threat of unwanted sexual contact while on Defendants' premises.

124. Defendants owed Plaintiff a duty to take reasonable precautions to ensure her safety

while on the premises of Defendants.

125. Prior to the sexual misconduct perpetrated by Fr. John Sheehan and Br. Albert Koch upon Plaintiff, Defendants knew, or in the exercise of reasonable care, should have known, of the general problem of priests and other clergy engaging in sexual misconduct with children.

126. Prior to the sexual misconduct perpetrated by Fr. John Sheehan and Br. Albert Koch upon Plaintiff, Defendants knew, or in the exercise of reasonable care, should have known, that Fr. John Sheehan and Br. Albert Koch were unfit for the intimate duties assigned to them, that they did not exhibit appropriate behavior with children, and otherwise posed a risk of perpetrating unwanted sexual contact upon children.

127. Defendants breached the duty owed to Plaintiff by failing to make the premises reasonably safe for Plaintiff despite what they knew or should have known about the existence of a potential threat of harm to Plaintiff on their premises.

128. Defendants breached the duty they owed to Plaintiff by failing to warn Plaintiff of the dangers and risks involved in participating in programs at Marianist Family Center given their superior knowledge of the potential risk of harm to Plaintiff.

129. At all relevant times, Defendants had inadequate policies and procedures to protect children entrusted to their care and protection, including Plaintiff, which substantially contributed to the creation of a dangerous environment.

130. As a direct and proximate result of the negligence of Defendants, Plaintiff suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life, and has incurred and/or will incur costs for treatment and will continue to do so in the future. These injuries are permanent and ongoing in nature.

DEMAND FOR COMPLIANCE WITH RULES 1:5-1(a) AND 4:17-4(c)

TAKE NOTICE that the undersigned attorney, counsel for the plaintiff, hereby demands, pursuant to the provisions of Rules 1:5-1(a) and 4:17-4(a), that each party serving pleadings or interrogatories and receiving responses there to shall serve copies of all such pleadings, interrogatories, and responses there to upon the undersigned, and further

TAKE NOTICE that this is a continuing demand.

NOTICE OF OTHER ACTIONS

Pursuant to the provisions of Rule 4:5-1, I certify as follows:

- a. The matter in controversy is neither the subject of any other action pending in any other court nor of a pending arbitration proceeding.
- b. It is not anticipated that the matter in controversy will become the subject of any other action pending in any other court or of a pending arbitration proceeding.
- c. All parties who should have been joined in this action have been so joined.

I hereby certify that the foregoing statements I have made are true. I am aware that if any of the statements I have made or willfully false, I am subject to punishment.

DESIGNATION OF TRIAL ATTORNEY

PLEASE TAKE NOTICE that pursuant to the provisions of Rules Governing the Courts of the State of New Jersey, Patrick Noaker, is hereby designated as the attorney who will try this case.

DEMAND FOR TRIAL BY JURY

PLEASE TAKE NOTICE that plaintiff demands a trial by jury of 12 to all issues pursuant to the Rules of this Court.

WHEREFORE, Plaintiff demands judgment against the Defendants for a sum in excess of the jurisdictional limits of all lower courts on each and every Cause of Action stated above, together with the costs and disbursements and other expenses necessary in this action.

Dated: January 6, 2021

Respectfully,



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