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JANE DOE GM,

Plaintiff,

-against-

**MARIANIST PROVINCE OF THE
UNITED STATES AND MARIANIST
FAMILY RETREAT CENTER, INC.,**

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 GM, 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 GM by Br. Albert Koch from approximately 1974 through 1976, when Plaintiff between approximately nine (9) and twelve (12) years-old. These incidents occurred while Plaintiff was visitor at the Marianist Family Retreat Center.

2. Plaintiff Jane Doe GM is an adult resident of the State of New Jersey. Given the nature of the allegations, Plaintiff has elected to proceed using the pseudonym Jane Doe GM in this matter because disclosure of Plaintiff's identity would cause additional injury to the Plaintiff. Jane Doe GM'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 Maryland non-stock corporation, Marianist Society, Inc. a/k/a New York Province of the Society of Mary, and the Marianist Province of St. Louis. Upon information and belief, the Marianist Family Retreat Center was owned and operated by the Marianist Society Inc. until 2002, when Marianist Society Inc. was merged into the Defendant Marianist Province of the United States. Upon information and belief, the Marianist Family Retreat Center was separately incorporated under the laws of New Jersey in February 2020. 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 Retreat Center, Inc. is a New Jersey non-profit corporation that owns and operates the Marianist Family Retreat Center with a principal place of business at 417 Yale Avenue, Cape May Point, New Jersey 08212. Hereafter, the Marianist Family Retreat Center, Inc. and the Marianist Family Retreat Center (pre-incorporation) will be referred to as the “Marianist Family Retreat Center.”

5. 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 Retreat Center.

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

7. Plaintiff brings this suit within the extended time period as provided for in N.J.S.A. 2A:14-2b.

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

BACKGROUND FACTS

9. Beginning in approximately 1974 and continuing until approximately 1976, when Plaintiff was a minor, Plaintiff regularly visited the Marianist Family Retreat Center in Cape May Point, New Jersey.

10. At the time, Plaintiff resided in Cape May Point, New Jersey.

11. While Plaintiff visited the Marianist Family Retreat Center, Defendants accepted custody of the minor Plaintiff, as her parents were not present to protect the Plaintiff.

12. Beginning in approximately 1974 and continuing through approximately 1976, Br. Albert Koch repeatedly sexually abused Plaintiff.

13. 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 Marianist Family Retreat Center.

14. At all times material, Br. Albert Koch remained under the direct supervision of the Defendant Marianist Province of the United States, or its predecessors.

15. At all times material, Br. Albert Koch remained under the control of the Defendant Marianist Province of the United States, or its predecessors.

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

17. By holding 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.

18. 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.

19. At all times material, Br. Albert Koch's sexual abuse of Plaintiff was foreseeable.

20. In addition to the above, the Marianists had a number of priests and brothers who have been credibly accused of child sexual abuse.

21. Defendants allowed Br. Albert Koch to have unsupervised and unlimited access to the minor Plaintiff, at Marianist Family Retreat Center in Cape May Point, New Jersey.

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

23. 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 Marianists and its agents, including Br. Albert Koch.

24. 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
MARIANIST FAMILY RETREAT CENTER**

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

26. At all material times, Defendants Marianist Province of the United States and Marianist Family Retreat 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 Marianist Family Retreat Center and while minor Plaintiff was interacting with Br. Albert Koch. These duties also encompassed the use of reasonable care in the retention and supervision of Br. Albert Koch and otherwise providing a safe environment for children.

27. Defendants owed Plaintiff a duty of reasonable care because it assumed duties owed to Plaintiff and had superior knowledge about the risk that 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.

28. 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.

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

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

31. Defendants owed Plaintiff a duty of reasonable care because they held out its agents

including Br. Albert Koch as safe to work with children.

32. 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 Br. Albert Koch, to spend time with, interact with, and recruit children.

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

34. 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.

35. Defendants breached their duties to Plaintiff by failing to use reasonable care to protect her from sexual abuse by Br. Albert Koch.

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

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

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

39. Defendants breached their duties by exposing Br. Albert Koch to children.

40. Defendants breached their duties by leaving Br. Albert Koch alone with children unsupervised.

41. Defendants breached their duties by inducing Plaintiff and her parents to entrust Plaintiff to and Br. Albert Koch.

42. 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.

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

44. 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.

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

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

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

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

49. 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.

50. 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.

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

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

53. 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.

54. Defendants breached their duty of care by recruiting, hiring, and maintaining Br. Albert Koch at their facilities.

55. 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).

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

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

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

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

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

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

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

63. Defendants also failed to warn Plaintiff about any of the knowledge that the

Defendants had about child sex abuse perpetrated by clergy or Br. Albert Koch.

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

65. 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.

66. 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.

67. 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.

68. 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.

69. 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.

70. 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.

71. 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 Br. Albert Koch who harmed her.

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

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

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

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

76. At all times material, Defendants paid Br. Albert Koch's salary.

77. At all times material, Defendants paid for Br. Albert Koch's health insurance and other benefits.

78. At all times material, Defendants furnished an office and other materials, supplies, and tools required for Br. Albert Koch to perform in his position as a brother.

79. At all times material, Defendants controlled the premises where Br. Albert Koch performed a brother.

80. At all times material, Defendants had the power to terminate the employment of Br. Albert Koch.

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

82. 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 MARIANIST FAMILY RETREAT
CENTER**

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

84. Among other duties, Defendants employed Br. Albert Koch to operate programs, including youth and spiritual counseling programs at Marianist Family Retreat Center.

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

86. The unwanted contact by Br. Albert Koch upon Plaintiff occurred during his regular

working hours and at the place of his employment with Defendants while performing duties of a priest and a brother on behalf of his employers.

87. The sexual contact by Br. Albert Koch occurred in the course and scope of his employment with Defendants.

88. The sexual contact by Br. Albert Koch occurred when they purported to act on behalf of the Defendants, upon which the Plaintiff and her family relied.

89. The sexual contact by Br. Albert Koch was generally foreseeable to Defendants.

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

91. Br. Albert Koch's conduct was motivated, at least in part, by a desire to serve his employer's business interests or otherwise meet the objectives of his employment, however misguided.

92. Alternatively, Br. Albert Koch's conduct constituted an authorized, minor deviation from his employment that was authorized and/or ratified by Defendants.

93. As a direct and proximate result of 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 MARIANIST FAMILY RETREAT CENTER

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

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

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

which the employee was assigned.

97. Prior to the sexual misconduct perpetrated by Br. Albert Koch upon Plaintiff, Defendants Marianist Province of the United States and Marianist Family Retreat 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 Retreat Center programs.

98. Prior to the sexual misconduct perpetrated by Br. Albert Koch upon Plaintiff, Defendants Marianist Province of the United States and Marianist Family Retreat Center knew, or in the exercise of reasonable care, should have known, that 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.

99. Given actual or constructive knowledge of 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.

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

101. Defendants Marianist Province of the United States and Marianist Family Retreat Center affirmed and ratified Br. Albert Koch's misconduct with Plaintiff. Given the actual and constructive knowledge of the likelihood that 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 Retreat Center.

102. Defendants Marianist Province of the United States and Marianist Family Retreat Center and their agents had superior knowledge of the likelihood that Br. Albert Koch would engage in unwanted sexual contact with children that he encountered in his position as a brother and had a duty to take precautions to lessen the risk that Plaintiff would be the victim of unwanted sexual contact.

103. At all relevant times, Defendants Marianist Province of the United States' and Marianist Family Retreat 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.

104. 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.

105. 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 MARIANIST FAMILY RETREAT CENTER**

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

107. Plaintiff was a business invitee of Defendants when Br. Albert Koch engaged her in unwanted sexual contact.

108. 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.

109. 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.

110. Defendants owed Plaintiff a duty to take reasonable precautions to ensure her safety while on the premises of Defendants.

111. Prior to the sexual misconduct perpetrated by 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.

112. Prior to the sexual misconduct perpetrated by Br. Albert Koch upon Plaintiff, Defendants knew, or in the exercise of reasonable care, should have known, that 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.

113. 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.

114. 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 Retreat Center given their superior knowledge of the potential risk of harm to Plaintiff.

115. 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.

116. 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: October 26, 2021

Respectfully,



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