

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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MAUREEN NYSEWANDER,

Index No.:154582/2012

Plaintiff,

-against-

AMENDED
COMPLAINT

JAMES MCLUCAS, ARCHDIOCESE OF NEW
YORK and PRIESTLY FRATERNITY OF
SAINT PETER,

Defendants.

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Plaintiff MAUREEN NYSEWANDER by her attorneys, Bailly and McMillan,
LLP, as and for their Amended Complaint against the Defendants, state and
allege as follows:

1. Plaintiff MAUREEN NYSEWANDER was and is an individual residing
in Fairfield County, Connecticut.

2. At all times material hereto, upon information and belief,
Defendant JAMES MCLUCAS was and is an individual residing at 11 Prospect
Street, Staatsburg, New York 12580.

3. At all times material hereto, upon information and belief,
Defendant ARCHDIOCESE OF NEW YORK was and is a domestic religious
corporation, duly organized and existing under and by virtue of the laws
of the State of New York, with offices located at 1011 First Avenue, New
York, New York 10022.

4. At all times material hereto, upon information and belief, Defendant ARCHDIOCESE OF NEW YORK was and is a foreign religious corporation, authorized to do business in the State of New York, with offices located at 1011 First Avenue, New York, New York 10022.

5. At all times material hereto, upon information and belief, Defendant ARCHDIOCESE OF NEW YORK was and is an unauthorized foreign religious corporation, doing business in the State of New York, with offices located at 1011 First Avenue, New York, New York 10022.

6. At all times material hereto, upon information and belief, Defendant ARCHDIOCESE OF NEW YORK was and is a domestic not-for-profit corporation organized and existing under the laws of the State of New York with offices located at 1011 First Avenue, New York, New York 10022.

7. At all times material hereto, upon information and belief, Defendant ARCHDIOCESE OF NEW YORK was and is an authorized foreign not-for-profit corporation doing business in the State of New York with offices located at 1011 First Avenue, New York, New York 10022.

8. At all times material hereto, upon information and belief, Defendant ARCHDIOCESE OF NEW YORK was and is an unauthorized foreign not-for-profit corporation doing business in the State of New York with offices located at 1011 First Avenue, New York, New York 10022.

9. At all times material hereto, upon information and belief, Defendant PRIESTLY FRATERNITY OF SAINT PETER was and is a domestic religious corporation, duly organized and existing under and by virtue of the laws of the State of Pennsylvania, with offices located at 119 Griffin Road, Elmhurst Township, Pennsylvania 18444.

10. At all times material hereto, upon information and belief, Defendant PRIESTLY FRATERNITY OF SAINT PETER was and is a foreign religious corporation, authorized to do business in the State of Pennsylvania, with offices located at 119 Griffin Road, Elmhurst Township, Pennsylvania 18444.

11. At all times material hereto, upon information and belief, Defendant PRIESTLY FRATERNITY OF SAINT PETER was and is an unauthorized foreign religious corporation, doing business in the State of Pennsylvania, with offices located at 119 Griffin Road, Elmhurst Township, Pennsylvania 18444.

12. At all times material hereto, upon information and belief, Defendant PRIESTLY FRATERNITY OF SAINT PETER was and is a domestic not-for-profit corporation doing business in under the laws of the State of Pennsylvania, with offices located at 119 Griffin Road, Elmhurst Township, Pennsylvania 18444.

13. At all times material hereto, upon information and belief, Defendant PRIESTLY FRATERNITY OF SAINT PETER was and is an authorized foreign not-for-profit corporation doing business in the State of with offices located at 119 Griffin Road, Elmhurst Township, Pennsylvania 18444.

14. At all times material hereto, upon information and belief, Defendant PRIESTLY FRATERNITY OF SAINT PETER was and is an unauthorized foreign not-for-profit corporation State of with offices located at 119 Griffin Road, Elmhurst Township, Pennsylvania 18444.

15. The Defendants are subject to the jurisdiction of this Court pursuant to CPLR § 301 and/or § 302.

16. This action falls within a statutory exception of CPLR § 1600 et seq.

AS AND FOR A FIRST CAUSE OF ACTION

17. On or about July of 2007 to December of 2009, Plaintiff MAUREEN NYSEWANDER was sexually abused, attacked and harassed by Defendant JAMES MCLUCAS in the City of Poughkeepsie, County of Dutchess, State of New York, and City of Manchester, County of Hillsborough, State of New Hampshire and City of Lowell, County of Middlesex, State of Massachusetts.

18. That at the aforesaid times and places, the Plaintiff was assaulted physically and sexually by Defendant JAMES MCLUCAS.

19. Prior to July of 2007, Defendants had prior notice of JAMES MCLUCAS's violent sexual propensities.

20. As a result of the aforesaid, Plaintiff was caused to sustain serious permanent personal injuries.

21. The injuries sustained by the Plaintiff were caused solely by the negligence of the Defendants and were not caused by any culpable conduct or negligence attributable to the Plaintiff MAUREEN NYSEWANDER.

22. As a result of the foregoing, Plaintiff MAUREEN NYSEWANDER sustained serious physical, mental and psychological injuries, was rendered sick and disabled, suffered severe injuries, pain and mental anguish, was compelled to seek medical care and treatment, has incurred and will incur medical expenses, rehabilitation and future care and will

suffer a loss of future earnings capacity, and was permanently injured and disabled.

23. By reason of the foregoing and negligence of Defendants, Plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION

24. Plaintiff repeats, reiterates and realleges each and every allegation in paragraphs "1" through "23" of this Amended Complaint with the same force and effect as if fully set forth herein.

25. From July of 2007 to December of 2009, Defendant JAMES MCLUCAS was an employee, contractor, agent and servant of Defendant ARCHDIOCESE OF NEW YORK to provide pastoral services.

26. From July of 2007 to December of 2009, Defendant JAMES MCLUCAS regularly provided pastoral services for Defendant ARCHDIOCESE OF NEW YORK.

27. From July of 2007 to December of 2009, Defendant JAMES MCLUCAS was acting within the scope of his employment and was engaged in his duties are of pastoral counseling on behalf of Defendant ARCHDIOCESE OF NEW YORK.

28. From July of 2007 to December of 2009, Defendant JAMES MCLUCAS was an employee, contractor, agent and servant of Defendant PRIESTLY FRATERNITY OF SAINT PETER to provide pastoral services.

29. From July of 2007 to December of 2009, Defendant JAMES MCLUCAS regularly provided pastoral services for Defendant PRIESTLY FRATERNITY OF SAINT PETER.

30. From July of 2007 to December of 2009, Defendant JAMES MCLUCAS was acting within the scope of his employment and was engaged in his duties are of pastoral counseling on behalf of Defendant PRIESTLY FRATERNITY OF SAINT PETER.

31. The injuries sustained by the Plaintiff MAUREEN NYSEWANDER were caused by the negligence of Defendants and their employee, contractor, agent and servant, Defendant JAMES MCLUCAS in, among other things, failing to properly supervise, control, monitor and observe Defendant JAMES MCLUCAS.

32. As a result of the foregoing and negligence, Plaintiff MAUREEN NYSEWANDER was caused to sustain serious injuries.

33. As a result of the foregoing and negligence and gross negligence of the Defendants, Plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION

34. Plaintiff repeats, reiterates and realleges each and every allegation in paragraphs "1" through "23" and "24" through "33" of this Amended Complaint with the same force and effect as if fully set forth herein.

35. Defendant ARCHDIOCESE OF NEW YORK, prior to hiring Defendant JAMES MCLUCAS, failed to investigate the qualifications, competency, capacity, abilities and capabilities of Defendant JAMES MCLUCAS to provide pastoral services.

36. Defendant PRIESTLY FRATERNITY OF SAINT PETER, prior to hiring Defendant JAMES MCLUCAS, failed to investigate the qualifications, competency, capacity, abilities and capabilities of Defendant JAMES MCLUCAS to provide pastoral services.

37. Had Defendants ARCHDIOCESE OF NEW YORK and PRIESTLY FRATERNITY OF SAINT PETER investigated the qualifications, competency, capacity, ability and capability of Defendant JAMES MCLUCAS, employment of DEFENDANT JAMES MCLUCAS would not have been granted or approved.

38. Defendants ARCHDIOCESE OF NEW YORK and PRIESTLY FRATERNITY OF SAINT PETER, their agents, servants and/or employees failed to adequately train, monitor, supervise, test, inspect and examine Defendant JAMES MCLUCAS performance of his pastoral duties.

39. At all times material hereto, upon information and belief, Defendants ARCHDIOCESE OF NEW YORK and PRIESTLY FRATERNITY OF SAINT PETER through their agents, servants and employees had actual and or constructive notice of Defendant JAMES MCLUCAS's tendencies and actions.

40. The injuries sustained by the Plaintiff MAUREEN NYSEWANDER were caused solely by the negligence of Defendants their agents, servants and/or employees in that they were negligent in, among other things, hiring, training, supervision, instructing, staffing and monitoring of priests; in failing to staff sufficient and adequate personnel to monitor, supervise and insure the safety of children and adults; in failing to monitor the performance of priests, including, but not limited to, Defendant JAMES MCLUCAS; in failing to replace Defendant JAMES MCLUCAS after notice of his inability to perform his pastoral duties

satisfactorily; and in otherwise being careless and negligent.

41. As a result of the foregoing and negligence of Defendants, Plaintiff has been damaged in a sum which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION

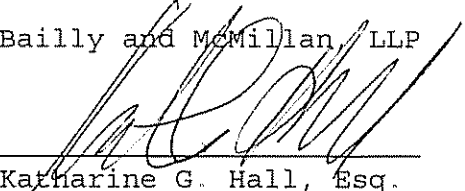
42. Plaintiff repeats, reiterates and realleges each and every allegation in paragraphs "1" through "23" and "24" through "33" and "34" through "41" of this Amended Complaint with the same force and effect as if fully set forth herein.

43. Defendants ARCHDIOCESE OF NEW YORK and PRIESTLY FRATERNITY OF SAINT PETER permitted Defendant JAMES MCLUCAS's sexual harassment and sexual assault of Plaintiff MAUREEN NYSEWANDER despite their prior notice and awareness of Defendant JAMES MCLUCAS's propensity to engage in sexually inappropriate and deviant behavior with clients in violation of Archdiocese of New York, Code of Pastoral Conduct for Clergy, including but not limited to Section IV) Pastoral Standards, Sections 1, 3, 4, 5 Section V) Clergy Member's Code of Conduct.

44. As a result of the foregoing and negligence of Defendants, Plaintiffs have been damaged in a sum which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction.

Dated: White Plains, New York
July 19, 2012

Bailly and McMillan, LLP



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