

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

MATTHEW GOLDEN,

Plaintiff,

-against-

THE DIOCESE OF BUFFALO, N.Y.,

Defendant.

SUMMONS

Index#: _____

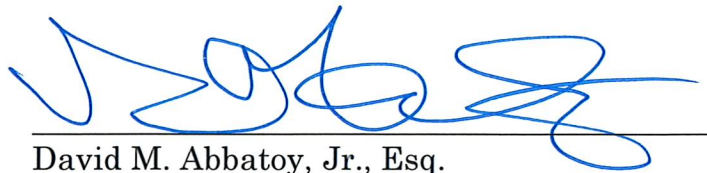
*Plaintiff designates Erie
County as the place of trial.*

TO THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED to answer the complaint of the plaintiff herein and to serve a copy of your answer on the plaintiff at the address indicated below within 20 days after service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the Summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint.

DATED: August 30, 2018
Rochester, New York



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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

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MATTHEW GOLDEN,

Plaintiff,

~~against~~

THE DIOCESE OF BUFFALO, NY,

Defendant.

-----X

Index No. _____

COMPLAINT

Matthew Golden, by and through his attorneys, Jeff Anderson & Associates, P.A. and The Abbatoy Law Firm, P.L.L.C. as and for his Complaint in this matter against Defendant, states and alleges as follows:

PARTIES

1. Plaintiff is a 33 year old resident of the State of New York.
2. At all times material, Defendant the Diocese of Buffalo, N.Y.

(hereinafter "Diocese") was and continues to be a non-profit religious corporation, which includes, but is not limited to, civil corporations, decision-making entities, officials and employees, authorized to conduct business and conducting business in the State of New York, with its principal place of business at 795 Main Street, Buffalo, New York.

3. Defendant Diocese functions as a business by engaging in numerous activities and/or revenue producing activities, business, trade, commerce, furnishing of services and soliciting money from its members in exchange for its services.

4. Defendant Diocese's actions and policies have tremendous impact and influence on the daily lives of individuals within the community, including Catholics and non-Catholics.

5. Defendant Diocese has several programs which seek out the participation of children in Defendant Diocese's activities. Defendant Diocese, through its officials, has control over those activities involving children.

6. Defendant Diocese has the power to appoint, supervise, monitor and fire each person working with children in Defendant Diocese.

7. At all times material, the Bishop of the Diocese of Buffalo controlled, operated and managed the affairs of the Diocese.

8. The current Bishop of the Diocese of Buffalo is Richard J. Malone.

FACTS

9. At all times material, Rev. Dennis G. Riter (hereinafter "Fr. Riter") was a Roman Catholic priest employed by the Diocese of Buffalo. Fr. Riter remained under the direct supervision, employ and control of the Diocese.

10. Defendant Diocese placed Fr. Riter in positions where he had access to and worked with children as an integral part of his work.

11. On information and belief, Fr. Riter served at numerous parishes in Defendant Diocese since his ordination in approximately 1971 including, but not limited to:

- a. Assumption Parish in Lackawanna;
- b. St. Aloysius Parish in Springville;

- c. St. Elizabeth Ann Seton Parish in Dunkirk;
- d. St. Brigid Parish in Buffalo;
- e. St. Columba Parish in Buffalo;
- f. Queen of All Saints Parish in Lackawanna;
- g. Our Lady of Perpetual Help Parish in Buffalo;
- h. St. Valentine Parish in Buffalo; and
- i. St. Mary Parish in Batavia.

12. Fr. Riter is currently assigned as pastor of St. Elizabeth Ann Seton Catholic Church in Dunkirk, NY.

13. Plaintiff was raised in a devout Roman Catholic family and attended Our Lady of Perpetual Help in Buffalo, New York.

14. Plaintiff and his family came into contact with Fr. Riter as an agent and representative of the Diocese.

15. Plaintiff participated in youth activities and church activities at Our Lady of Perpetual Help. In accord with the teachings, directives, and influence of the Diocese, Plaintiff developed great admiration, trust, reverence and respect for the Roman Catholic Church, including the Diocese and its agents, including Fr. Riter.

16. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on the Diocese and Fr. Riter.

17. The Diocese had custody of Plaintiff and accepted entrustment of Plaintiff and had responsibility for Plaintiff and authority over him.

18. From approximately 1996 to 1999, when Plaintiff was approximately 10 to 13 years old, Fr. Riter engaged in unpermitted sexual contact with Plaintiff.

19. Prior to the sexual abuse of Plaintiff, in approximately May 1992, Defendant Diocese received a letter from a student at Christ the King Seminary reporting that he witnessed Fr. Riter sexually abusing a 6 year old boy at Queen of All Saints Church in Lackawanna.

20. The student wrote to Bishop Head and Bishop Grosz on behalf of the Diocese, describing that he witnessed Fr. Riter in a “morally and legally questionable situation with a young male child” and that it was “very disturbing...to the point that this keeps me awake at night.” The seminarian stated, “anyone who would take advantage of a child this way shall be criminally investigated and not serve as priest in any capacity in any ministry in our Catholic Church.”

21. Defendant Diocese took no action in response to the seminarian’s report.

22. In 2001, Defendant Diocese learned that Fr. Riter sexually abused an altar boy at Our Lady of Perpetual Help. The child’s mother reported the abuse of her son requesting that something be done.

23. Shortly thereafter, Defendant Diocese transferred Fr. Riter from Our Lady of Perpetual Help.

24. On information and belief, parishioners at Our Lady of Perpetual Help were not told the reason for Fr. Riter’s departure.

25. On information and belief, Fr. Riter was placed on administrative leave for approximately two years, from approximately 2001 to 2003, as a result of his sexual abuse of children.

26. From approximately 2003 to 2008, Fr. Riter was assigned to St. Mary Parish in Batavia, NY.

27. In March 2018, Plaintiff contacted Defendant Diocese to report that Fr. Riter sexually abused him as a child after learning that Fr. Riter was still working as a priest with access to children at St. Elizabeth Ann Seton.

28. Subsequently, on March 26, 2018, Defendant Diocese placed Fr. Riter on administrative leave.

29. Parishioners at St. Elizabeth Ann Seton were not told the reason for Fr. Riter's administrative leave.

30. On approximately June 28, 2018, Defendant Diocese returned Fr. Riter to his assignment as pastor at St. Elizabeth Ann Seton, stating that the allegations were "found unsubstantiated" by its diocesan review board.

31. Defendant Diocese has not provided any further information or explanation as to the results of the internal investigation done by the diocesan review board to the alleged victims, their families, parishioners or the public. Rather, Plaintiff learned that Fr. Riter was returned as pastor at St. Elizabeth Ann Seton from the newspaper.

32. Defendant Diocese has refused to provide explanation despite requests for the report or findings of the diocesan review board.

33. Defendant Diocese knew or should have known that Fr. Riter was a danger to children before he molested Plaintiff and after the abuse of Plaintiff was reported.

34. Defendant Diocese negligently or recklessly believed that Fr. Riter was fit to work with children and/or that any previous problems he had were fixed or cured; that Fr. Riter would not sexually molest children; that Fr. Riter would not injure children; and/or that Fr. Riter would not hurt children.

35. Defendant Diocese holds its 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 its programs, marketing to youth and families, recruiting youth and families, and holding out the people that work in its programs as safe.

36. As a result, Defendant's leaders and agents have occupied positions of great trust, respect and allegiance among members of the general public, including Plaintiff.

37. By placing Fr. Riter in an assignment, Defendant Diocese, through its agents, affirmatively or implicitly represents to minor children, their families, and members of the general public that Fr. Riter did not and does not pose a threat to children.

38. By placing Fr. Riter in an assignment, Defendant Diocese, through its agents, affirmatively or implicitly represent to minor children, their families, and

members of the general public that Defendant did not and does not have a history of molesting children.

39. By placing Fr. Riter in an assignment, Defendant Diocese, through its agents, affirmatively or implicitly represent to minor children, their families, and members of the general public, that Defendant Diocese did not and does not know of Fr. Riter's history of molesting children.

40. By placing Fr. Riter in an assignment, Defendant Diocese, through its agents, affirmatively or implicitly represent to minor children, their families, and members of the general public and that Defendant Diocese does not know that Fr. Riter was and is a danger to children.

41. The Diocese knew or should have known that employing child molesters and giving them unchecked access to children and the public at large is an extremely risky practice and is likely to expose the public to the threat of criminal activity.

42. Defendant Diocese has affirmatively concealed Fr. Riter's history of sexual abuse from the public.

43. Defendant Diocese has failed to warn the public of the risk posed by Fr. Riter's access to children.

44. By placing Fr. Riter in a position of trust and authority, the Diocese exposed the public, and Plaintiff in particular, to the risk of becoming a victim of a criminal sexual act.

45. Sexual abuse, by its very nature, is an act that is committed in secret and, as a result, if the public is unaware of the potential that it will encounter a child molester, the public cannot take steps to protect itself from potential criminal activity.

46. By keeping Fr. Riter in a position of trust and authority (with ready access to children), the Diocese introduced the threat of criminal conduct into the public sphere.

47. In so doing, the Diocese created the opportunity and forum for Fr. Riter to commit criminal acts against members of the public including the Plaintiff, thus impairing the public health, welfare, and safety.

48. The public has an inherent right to be free from activities that pose a risk to health, welfare, and safety.

49. Parents have an inherent right to protect their children from harm and to have access to information that would allow them to do so.

50. The Diocese has a duty to refrain from taking actions that it knows or should know would expose the public to impairment of its health, welfare, and safety, including introducing the threat of criminal activity into the public sphere.

51. Despite this duty, the Diocese has, for many decades, adopted a policy and practice of covering up criminal activity committed by clerics within the Diocese. This practice continues to the present day and encompasses all times relevant to the instant complaint.

52. The failure to disclose the identities, histories and information about sexually abusive clerics is unreasonable and knowingly or recklessly creates or maintains a condition which endangers the health, safety, and welfare of a considerable numbers of members of the public, including Plaintiff.

53. In approximately March 2018, Defendant Diocese publicly admitted that it knew of 42 priests who worked in the Diocese that had been accused of sexual misconduct with minors. These priests are deceased or have been removed or retired from ministry.

54. Defendant Diocese continues to conceal important information about the priests on that list and the names and information about accused priests not on the list, thus continuing to expose an unknowing public to the threat of criminal activity.

55. Notably, despite receiving direct reports of sexual abuse involving victims of Fr. Riter, the Diocese has not included Fr. Riter on its public list of accused priests.

56. As a result, children are at risk of being sexually molested. Further, the public is placed under the mistaken belief that Defendant Diocese does not have undisclosed knowledge of clerics who present a danger to children.

57. Upon information and belief, prior to and since March 2018, Defendant Diocese failed to report multiple allegations of sexual abuse of children by its agents to the proper civil authorities. As a result, children in the local community are at risk of being sexually molested.

58. As a direct result of Defendant's conduct described herein, Plaintiff has suffered, and will continue to suffer, great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, physical, personal and psychological injuries.

59. Plaintiff was prevented, and will continue to be prevented, from performing normal daily activities and obtaining the full enjoyment of life; and/or has incurred and will continue to incur expenses for psychological treatment, therapy, and counseling, and, on information and belief has and/or will incur loss of income and/or loss of earning capacity.

COUNT I: NUISANCE (COMMON LAW AND N.Y. PENAL LAW 240.45)

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

60. The Defendant's actions and omissions, as described above, have interrupted or interfered with the health, safety, and welfare of the general public.

61. The Defendant has created and exposed the public to these unsafe conditions continuously and on an ongoing basis since at least the time that Plaintiff was sexually abused and has continued to expose the public to that unabated threat until the present day.

62. As a direct and proximate result of the Defendant's conduct, the Plaintiff has suffered special and individualized harms separate and distinct from the harms suffered by the public at large.

63. The harm suffered by the Plaintiff is the exact type of harm that one would expect to result from the Defendant's acts and omissions.

64. Defendant continues to conspire and engage and/or has conspired and engaged in efforts to: 1) conceal from the general public the sexual assaults committed by, the identities of, and the pedophilic/ephebophilic tendencies of Fr. Riter and the Diocese's other accused priests; and/or 2) conceal from proper civil authorities sexual assaults and abuse committed by Fr. Riter and the Diocese's other agents against minor children; and/or 3) attack the credibility of victims of the Diocese's agents; and/or 4) protect the Diocese's agents from criminal prosecution for their sexual assaults and abuse against children; and/or 5) allow known child molesters to live freely in the community without informing the public.

65. The net result of the aforementioned activities is that Defendant Diocese has introduced the threat of criminal activity into the public sphere and has thereby impaired the public's health, safety, and welfare.

66. The conduct of Defendant Diocese was specially injurious to Plaintiff's health, safety and welfare as because Plaintiff was sexually assaulted by Defendant Diocese's agent, Fr. Riter.

67. The conduct of Defendant Diocese was further specially injurious to Plaintiff's health, safety and welfare in that when Plaintiff discovered Defendant Diocese's conduct, Plaintiff experienced mental, emotional and/or physical distress that he had been the victim of Defendant Diocese's conduct.

68. Plaintiff has suffered and/or continues to suffer special, particular, and peculiar psychological and emotional harm and/or peculiar pecuniary harm, different in kind from the general public, after learning of Defendant Diocese's conduct.

69. Plaintiff's injuries are also particular to him and different from certain members of the public who have not been harmed by the nuisance. People who have not been harmed by the nuisance include those who have not suffered any injury at all, those who are unaware of the nuisance, those who do not believe that the conduct of Defendant Diocese ever occurred, and those who think that any such conduct only occurred decades ago.

70. As a result of the above-described conduct, Plaintiff has suffered the injuries and damages described herein.

PRAYER FOR RELIEF

Based on the foregoing causes of action, Plaintiff prays judgment against Defendant in an amount that will fully and fairly compensate him for his injuries and damages, and for punitive damages, in an amount sufficient to deter others and punish Defendant Diocese, and for any other relief the Court deems appropriate. The amount of damages sought in this Complaint exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

In the interest of promoting public safety, Plaintiff requests an order requiring that Defendant Diocese of Buffalo publicly release the names of all agents, including priests, accused of child molestation, each agent's history of abuse, each

such agent's pattern of grooming and sexual behavior, and his last known address. This includes the release of Defendant Diocese of Buffalo's documents on the agents.

Plaintiff requests an order requiring that Defendant Diocese discontinue its current practice and policy of dealing with allegations of child sexual abuse by its agents secretly, and that it work with civil authorities to create, implement and follow a policy for dealing with such molesters that will better protect children and the general public from further harm.

DEMAND IS HEREBY MADE FOR A TRIAL BY JURY.

DATED: August 30, 2018
Rochester, New York



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