

2018



Hfx No. 479060

IN THE SUPREME COURT OF NOVA SCOTIA

BETWEEN:

DOUGLAS CHAMPAGNE on his own behalf and on behalf of the class

PLAINTIFF

-and-

THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX-YARMOUTH

DEFENDANT

NOTICE OF ACTION

(Proceeding under the *Class Proceedings Act*, S.N.S. 2007, c. 28)

To: THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX-YARMOUTH

Action has been started against you

The plaintiff takes action against you.

The plaintiff started the action by filing this notice with the court on the date certified by the Prothonotary.

The plaintiff claims the relief described in the attached statement of claim. The claim is based on the grounds stated in the statement of claim.

Deadline for defending the action

To defend the action, you or your counsel must file a notice of defence with the court no more than following number of days after the day this notice of action is delivered to you:

- 15 days if delivery is made in Nova Scotia
- 30 days if delivery is made elsewhere in Canada
- 45 days if delivery is made anywhere else.

Judgment against you if you do not defend

The court may grant an order for the relief claimed without further notice, unless you file the notice of defence before the deadline.

You may demand notice of steps in the action

If you do not have a defence to the claim or you do not choose to defend it you may, if you wish to have further notice, file a demand for notice.

If you file a demand for notice, the plaintiff must notify you before obtaining an order for the relief claimed and, unless the court orders otherwise, you will be entitled to notice of each other step in the action.

Rule 57 - Action for Damages Under \$100,000

Civil Procedure Rule 57 limits pre-trial and trial procedures in a defended action so it will be more economical. The Rule applies if the plaintiff states the action is within the Rule. Otherwise, the Rule does not apply, except as a possible basis for costs against the plaintiff.

This action is not within Rule 57.

Filing and delivering documents

Any documents you file with the court must be filed at the office of the Prothonotary 1815 Upper Water Street, Halifax, Nova Scotia, (902) 424-4900.

When you file a document, you must immediately deliver a copy of it to each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a judge orders it is not required.

Contact information

The plaintiff designates the following address:

*McKiggan Hebert
903-5670 Spring Garden Road
Halifax, Nova Scotia B3J 1H6*

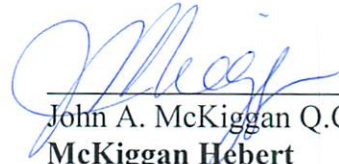
Documents delivered to this address are considered received by the plaintiff on delivery. Further contact information is available from the Prothonotary.

Proposed place of trial

The plaintiff proposes that, if you defend this action, the trial will be held in Halifax, Nova Scotia.

Signature

Signed the 1 day of August, 2018.



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McKiggan Hébert

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Prothonotary's certificate

I certify that this notice of action, including the attached statement of claim, was filed with the Court on 2 day of August, 2018.



Prothonotary

JESSICA BOUTILIER
Deputy Prothonotary

2018

Hfx No.

IN THE SUPREME COURT OF NOVA SCOTIA**BETWEEN:****DOUGLAS CHAMPAGNE****PLAINTIFF****-and-****THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX-YARMOUTH****DEFENDANT****STATEMENT OF CLAIM****(Proposed Class Proceeding)****A. Overview**

1. For decades, priests employed by the Archdiocese of Halifax-Yarmouth and its predecessor dioceses/archdioceses (the "**Archdiocese**") sexually assaulted and battered Catholic worshippers who attended their parishes.

2. These priests were responsible for the spiritual guidance, care and control of class members they assaulted, many of whom were vulnerable children. By the power and authority vested in the impugned priests by the Archdiocese and flowing from the regular communication and private interaction between the priests and class members, the priests developed a relationship of psychological intimacy with class members providing them with the opportunity to engage in acts of sexual assault and battery.

3. Many of the abusive priests were criminally convicted as a result of their acts of sexual assault and battery upon Catholic worshippers who attended their parishes. Many of the abusive priests were sent by the Archdiocese to Southdown Institute, a treatment facility run by the Catholic Church, in Ontario, Canada.

4. After attending Southdown Institute, the priests were placed back into parishes within the Archdiocese with no notice or warning to parishioners of the priests' abusive past.

5. The defendant, through the authority vested in the bishop and archbishop, as the case may be, retained sole authority to appoint, train, supervise, reprimand and dismiss priests within the Archdiocese, and improperly failed to do so. As a result, the Archdiocese was negligent and breached its fiduciary duty to class members.

6. Through the close and direct relationship between the defendant and the priests and as a result of providing the priests with the opportunity to abuse their power associated with their relationship of psychological intimacy with class members, the defendant is also vicariously liable for the Archdiocese's priests' conduct.

B. The Parties

i. Representative Plaintiff and Class

7. The plaintiff Douglas Champagne is an individual residing in British Columbia. At all material times, he was a minor and member of the Canadian Martyrs Church, a parish in Halifax, Nova Scotia, part of the defendant the Roman Catholic Episcopal Corporation of Halifax-Yarmouth.

8. The plaintiff brings this proposed class proceeding under *The Class Proceedings Act*, SNS 2007, c 28 on his own behalf and on behalf of the following class:

All individuals who allege they were sexually assaulted or battered by a priest of the Roman Catholic Episcopal Corporation of Halifax-Yarmouth or its predecessor dioceses between 1960 and the present (the "Class");

ii. The Defendant

9. The defendant, The Roman Catholic Episcopal Corporation of Halifax-Yarmouth ("**Halifax-Yarmouth**"), is a corporation created by statute under the laws of the Province of Nova Scotia and, at all material times, employed the Archdiocese's priests who committed acts of sexual assault and battery against the plaintiff and Class.

10. Halifax-Yarmouth is the legal entity of the Archdiocese of Halifax-Yarmouth, the canonical entity that is part of the Catholic Church.

11. On or about October 22, 2009, the Archdiocese was created both within the Church's organizational canonical structure and as a corporation incorporated by statute under the laws of the Province of Nova Scotia

12. The Archdiocese was created from its predecessors, the Archdiocese of Halifax and the Diocese of Yarmouth. The Archdiocese of Halifax was established after being elevated from the Diocese of Halifax on May 4, 1852. The Diocese of Halifax was established on September 22, 1844. The Diocese of Yarmouth was first established on July 6, 1953.

13. Both the Archdiocese of Halifax and the Diocese of Yarmouth operated separately until they amalgamated to create the Archdiocese. After amalgamation, the Archdiocese of Halifax-Yarmouth assumed and was legally responsible for the liabilities of the former Diocese of Yarmouth and the Diocese of Halifax.

14. At all material times, the Archdiocese's predecessor dioceses, the Archdiocese of Halifax and the Diocese of Yarmouth operated with the same organizational and corporate structure as the Archdiocese. Since their respective establishment, the Archdiocese of Halifax and the Diocese of Yarmouth were led by bishops who were considered, for practical and legal purposes, to be one and the same as their respective dioceses and were fully responsible for all religious and secular decisions taken on behalf of their respective dioceses.

15. At all material times, Halifax-Yarmouth and its predecessors acted through its archbishops and bishops who constituted a corporation sole and acted on its behalf and Halifax-Yarmouth is liable for their acts and omissions.

16. As a result of the authority and power vested in the Archdiocese's priests, the Archdiocese is vicariously liable for the acts and omissions of its priests.

C. The Roman Catholic Church

17. The Catholic Church (the "**Church**") is the largest Christian church in the world with approximately 1.29 billion members worldwide.

18. The Church's administration, entitled the "Holy See," is in the Vatican City.

19. Under the Code of Canon Law, the Church is broken down into dioceses which govern the religious practices as well as spiritual and temporal guidance of parishioners ("**Catholics**") in specified geographic areas.
20. A Roman Catholic archdiocese is a diocese with a large number of Catholics worshipping within its parishes, typically located in a metropolitan city. An archdiocese is a territorial enterprise composed of many parishes and administered by an archbishop.
21. It is common for legislation to incorporate bishops and archbishops as episcopal corporations, the secular arm of the bishop or archbishop for all purposes. The office of the bishop or archbishop, the enterprise of the diocese and the episcopal corporation are all legally synonymous.
22. The Church's leadership structure is based on a hierarchy with superior clergy positions, such as bishops and archbishops, having full and unfettered responsibility over lower-tiered positions such as priests and deacons.
23. The Pope is the leader of the Church and the Bishop of Rome. The Pope constitutes archdioceses and appoints bishops and archbishops.
24. Each diocese is headed by a bishop who oversees the religious life of Catholics in the diocese by entering into a relationship of psychological intimacy with each parishioner.
25. Among other things, bishops are responsible for the spiritual guidance, teaching and counselling of Catholics within a diocese.
26. Bishops retain sole authority to appoint, train, assign, supervise, reprimand and dismiss priests within their diocese. They are responsible for ensuring that priests perform their duties in a way that does not harm Catholics in their parish.
27. Priests are religious leaders within the Church. Unlike bishops, priests have limited authority and can only perform religious rites, such as marriage ceremonies. Priests oversee and provide religious and secular guidance to Catholics who attend a parish.

28. Priests are under the direct control and responsibility of bishops for all religious and secular matters related to their respective parishes.
29. As priests are present day-to-day in individual parish locations, they are expected to, and do, establish a relationship of psychological intimacy with Catholics who worship at their parish.
30. Priests interact in person with individual Catholics on a regular basis about religious and secular matters.
31. Priests are often left alone with Catholic adults and children in the course of their religious duties with the Church.
32. The Church is a hierarchy that requires strict obedience from its members to the person above them in the hierarchy; parishioners to their parish priest, priest to bishop and bishop to the Pope.

D. The Church's Policy of Secrecy

33. In 1962 Pope John XXIII issued instructions to every Bishop in the Church regarding the procedures to be followed in cases involving allegations of sexual abuse against a priest. The instructions state that all allegations of sexual abuse against a priest were to be kept strictly secret under penalty of excommunication.
34. In 2001 then Cardinal Ratzinger (who became Pope Benedict XVI) issued instructions from the Vatican to all Church Bishops confirming that the 1962 instructions remained in force.
35. The Church and the Archdiocese knew or ought to have known that keeping allegations of sexual abuse against priests secret posed a risk that sexually abusive priest's would commit further assaults and the Church and the Archdiocese knew or ought to have known that the Church's policy of secrecy posed a risk to the Plaintiff and other class members in the Archdiocese who were members of the Church.
36. The Church and the Archdiocese were aware of allegations of sexual abuse against priests in the Archdiocese. The Defendant engaged in a pattern of systemic cover up of sexual abuse by priests in the Archdiocese.

E. The Sexual Assault and Battery by the Priests

37. The priests of the Archdiocese committed sexual assault and battery against the Class during the class period.

38. Through the power and authority conferred upon the Archdiocese's priests by their roles as priests of the Archdiocese, and in discharging their roles, the priests engaged in improper sexual grooming and sexual misconduct with the plaintiff and the Class members.

39. The priests were provided the opportunity to sexually assault the plaintiff and the Class members as a result of their relationship of psychological intimacy with the Class members.

40. The priests abused their authority as representatives of the Archdiocese by committing acts of sexual assault and battery on the plaintiff and the Class members during the class period.

For example:

(a) in 1980, priest Angus McRae pleaded guilty and was convicted of sexual assaults against three youths;

(b) in 1993, priest Edouard Joseph Theriault received a suspended two-year sentence after being convicted of indecent assault for assaults in the 1960s;

(c) in 1999, priest Robert MacDougall pleaded guilty to two counts of indecent sexual assault for assaults in the late 1960s and early 1970s; and

(d) in 2012, priest Albert LeBlanc pleaded guilty to six counts of sexual assault against young boys in the 1960s and 1970s while he was a priest with the Diocese of Yarmouth, one of the Archdiocese's predecessors.

41. At all material times, Halifax-Yarmouth had actual or constructive knowledge of the acts of sexual assault and battery committed by the priests of the Archdiocese.

42. Halifax-Yarmouth received complaints about the priests sexually assaulting and battering the Class members and failed to investigate or reprimand the priests as a result of those complaints. Instead of investigating or reprimanding the priests, the defendant sent them to the Southdown Institute for treatment and then returned them to parishes where they continued to harm Class members.

43. Halifax-Yarmouth knew or ought to have known that its priests were sexually assaulting and battering the plaintiff and the Class members during the class period. By sending priests to the Southdown Institute, the defendant recognized that these sexually abusive priests posed a danger to parishioners.

44. Alternatively, Halifax-Yarmouth knew or ought to have known that its priests posed a real and immanent risk of sexually assaulting and battering the plaintiff and the Class members.

45. Upon receiving complaints about the priests' sexual assault and battery of the plaintiff and the Class members, Halifax-Yarmouth failed to warn the proper law enforcement authorities and intentionally or negligently withheld the complaints from the Archdiocese and Church leaders in Canada and abroad.

F. The Plaintiff's Experience

46. In 1960, the plaintiff Douglas Champagne's father abandoned his family. At the time, Douglas was eight years old. Douglas's mother contacted Father George G. Epoch of Canadian Martyrs church to arrange for counselling. Father Epoch was a priest of the Archdiocese. This was when Douglas was first introduced to Father Epoch.

47. Father Epoch suggested to Douglas's mother that joining the altar boys would be good for Douglas. Father Epoch was responsible for training all the altar boys.

48. Douglas became a Knight of the Altar in 1962. He went to altar boy practice and Father Epoch kept him in the garment room after the others had left.

49. Father Epoch sexually assaulted Douglas. Father Epoch told Douglas that he loved him. These acts of sexual assault went on for months.

50. Eventually Father Epoch brought Douglas to the residence where all the priests lived and sexually assaulted him in Father Epoch's room within the residence.

51. Other priests that lived at the residence looked at Douglas with a combination of disgust and sympathy. They did not lift a finger to prevent the abuse that they knew or ought to have known was taking place.

52. This sexual abuse continued until one day the parishioners were informed that Father Epoch had been transferred.
53. Douglas received many love letters from Father Epoch over the years.
54. Douglas began skipping school, sometimes for as long as a month at a time. He forged notes from my mother telling school administrators that he had an incurable disease.
55. Douglas struggled through junior high school.
56. He was suspended from school and travelled to western Canada where he moved from job to job.
57. He returned to Nova Scotia briefly in 1972 but the memories of the abuse by Father Epoch aggravated his psychological injuries. In 1974 he left Nova Scotia and did not return.

G. Causes of Action

i. Breach of Fiduciary Duty

58. Through the relationship between the plaintiff and the Class members, many of whom were children when they were sexually assaulted by the Archdiocese's priests, and Halifax-Yarmouth being one of trust, reliance and dependence, Halifax-Yarmouth owed a fiduciary duty to the plaintiff and Class members.
59. Halifax-Yarmouth owed the plaintiff and the Class members, as individuals in their care and control, a fiduciary duty, which included a duty to protect them and to not put their interests ahead of the interests of the plaintiff and Class members.
60. Among other things, Halifax-Yarmouth, through the Archdiocese, was responsible for:
- (a) the promotion of the health, safety and spiritual well-being of the plaintiff and the Class members;
 - (b) creating, planning, establishing, setting up, initiating, operating, financing, supervising, controlling and regulating the activities of the Church led by the Archdiocese's priests; and

- (c) the care and supervision of the plaintiff and the Class members as they participated in religious practices and secular activities led by the Archdiocese's priests.

61. Halifax-Yarmouth owed a fiduciary duty to the plaintiff and the Class members based on the trust that the plaintiff and the Class members put in Halifax-Yarmouth through the Archdiocese and its priests as spiritual leaders of the Church community.

62. Halifax-Yarmouth engendered and fostered a culture requiring Catholics to trust and follow its priests who were ordained in the Church.

63. At all material times, the plaintiff and the Class members were entirely within the knowledge, contemplation, power and control of the defendant and its agents and were subject to the unilateral exercise of the defendant's or its agents' power or discretion.

64. At all material times, the plaintiff and the Class members were treated in all ways consistent with the obligations of a party standing in a *loco parentis* relationship to an individual under his or her care or control.

65. The plaintiff and the Class members were entitled to and did rely on the defendant to their detriment to fulfill their fiduciary obligations, the particulars of which include, but are not limited to, those duties set out above.

66. At all material times, Halifax-Yarmouth owed a fiduciary duty to the plaintiff and the Class members to act in their best interests and to protect them from any harm, including, but not limited to, mental, emotional, physical or sexual abuse.

67. In failing to give proper consideration and to take reasonable steps to protect the plaintiff and the Class members from sexual assault by the Archdiocese's priests, Halifax-Yarmouth breached its fiduciary duty by failing to meet its obligations set out above, and through:

- (a) failing to properly screen, investigate and vet the Archdiocese's priests' background and character prior to accepting them into the Archdiocese;
- (b) failing to properly supervise the Archdiocese's priests after ordaining them as such;
- (c) failing to safeguard the physical and emotional needs of the plaintiff and the Class members;

- (d) failing to protect the plaintiff and Class members from physical, emotional, psychological, spiritual and sexual harm;
- (e) failing to consider whether the plaintiff and Class members were at risk of any harm when interacting with the Archdiocese's priests;
- (f) failing to adequately warn or protect Class members from physical, emotional, psychological, spiritual and sexual harm from the Archdiocese's priests; and
- (g) putting its own interests ahead of the interests of the plaintiff and the Class members by ignoring, remaining willfully blind and permitting the conduct of the Archdiocese's priests to persist to avoid trouble, scrutiny and unwanted publicity.

68. As a result of the Archdiocese's failure to protect the plaintiff and the Class members under their care and control from harm perpetrated by the Archdiocese's priests, Halifax-Yarmouth breached its fiduciary duty owed to the plaintiff and the Class members.

ii. Negligence

69. Halifax-Yarmouth owed a duty of care to the plaintiff and the Class members to ensure their care and protection when coming into contact with the Archdiocese's priests in the ordinary course of their religious practices and secular activities as part of parishes belonging to the Archdiocese.

70. Halifax-Yarmouth owed a duty of care to the plaintiff and the Class members to ensure that they were not physically, emotional, psychological, spiritually or sexually harmed when interacting with the Archdiocese's priests.

71. Halifax-Yarmouth through the Archdiocese ordained its priests within the geographical boundaries of the Archdiocese and had control over the affairs of its priests. At all material times, Halifax-Yarmouth had the legal duty to control, discipline, direct and intervene in conduct taken by its priests towards the plaintiff and the Class members.

72. Halifax-Yarmouth owned and operated the Church's buildings in its geographical jurisdiction in which Catholics gathered. As a result, the defendant ought to have properly supervised the parishes over which the Archdiocese's priests presided to mitigate the possibility of harm to the plaintiff and the Class members.

73. Halifax-Yarmouth had power and influence over Catholics who worshipped in the Diocese's parishes who were vulnerable and dependent on the defendant for their spiritual needs.

74. As a result of this spiritual dependence, Halifax-Yarmouth owed a duty of care to the plaintiff and the Class members to ensure that they would not be physically, emotionally, psychologically, spiritually or sexually harmed by the Archdiocese's priests. The duty of care is informed by the power imbalance between the defendant and Catholics who were part of the Archdiocese's parishes and vulnerable to sexual misconduct resulting from relationships of psychological intimacy with the Archdiocese's priests.

75. At all material times, the Archdiocese's priests had direct contact with the plaintiff and Class members. The defendant reached out to Class members to involve them in the affairs of the Church.

76. The defendant organized, encouraged, authorized, condoned and promoted direct interaction between the plaintiff and Class members and the Archdiocese's priests.

77. The defendant organized, encouraged, authorized, condoned and promoted religious and secular activities for the benefit of the plaintiff and Class members as altar boys, through bible studies and in other activities sponsored, run and controlled by the defendant.

78. Through the power and influence they held over the plaintiff and the Class members, the defendant encouraged Catholics in the Archdiocese's parishes, including the plaintiff and the Class members, to be obedient to the orders, desires and wishes and pronouncements of the Archdiocese's priests.

79. The defendant knew or ought to have known that the Archdiocese's priests were committing acts of sexual assault and battery against the plaintiff and the Class members.

80. The defendant was aware or ought to have been aware that the Archdiocese's priests were frequently engaged in activities with children. It was reasonably foreseeable that there was a risk of harm to the plaintiff and the Class members as a result of conduct by the Archdiocese's priests.

81. The defendant sent priests who committed sexual misconduct to Southdown Institute, received reports from Southdown and was aware, or ought to have been aware, of the dangers posed by the priests to children in the Archdiocese. But pursuant to the Church's policy of secrecy, the defendant failed to warn parishioners in the Archdiocese or to notify the appropriate authorities as required by law.

82. The reasonable standard of care expected of the defendant in the circumstances required them to, among other things:

- (a) properly screen, investigate, and vet the Archdiocese's priests' background and character prior to accepting them into the Archdiocese;
- (b) have in place and follow appropriate standards of conduct, policies and procedures to adequately train the Archdiocese's priests;
- (c) have in place and follow appropriate standards of conduct, policies and procedures to adequately supervise the Archdiocese's priests;
- (d) have in place and follow appropriate standards of conduct, policies and procedures to ensure that the Archdiocese's priests would not endanger the health or well-being of the plaintiff and the Class;
- (e) have in place and follow appropriate standards of conduct, policies and procedures to prevent sexual abuse and to investigate and pursue allegations of sexual abuse against the Archdiocese's priests with due diligence;
- (f) have in place and follow appropriate standards of conduct, policies and procedures to prevent and end physical, sexual or psychological abuse against the plaintiff and the Class members;
- (g) have in place and follow appropriate standards of conduct, policies and procedures to take appropriate disciplinary action, including termination of an Archdiocese's priest, for that priest's propensity to commit acts of sexual assault or battery;
- (h) have in place and follow appropriate standards of conduct, policies and procedures to use reasonable care to ensure the safety, well-being and protection of the plaintiff and the Class;
- (i) have in place and follow appropriate standards of conduct, policies and procedures to provide the plaintiff and the Class with a program and system through which abuse would be recognized and reported; and
- (j) have in place and follow appropriate standards of conduct, policies and procedures to ensure that the Class members who were abused receive appropriate counselling and treatment.

83. The defendant breached the standard of care required of them in the circumstances on a class-wide, systemic basis, in the following respects:

- (a) failing to properly screen, investigate, and vet the Archdiocese's priests' background and character prior to accepting them into the Archdiocese;
- (b) failing to have in place and follow appropriate standards of conduct, policies and procedures to adequately train the Archdiocese's priests;
- (c) failing to have in place and follow appropriate standards of conduct, policies and procedures to adequately supervise the Archdiocese's priests;
- (d) failing to have in place and follow appropriate standards of conduct, policies and procedures to ensure that the Priests would not endanger the health and well-being of the plaintiff and the Class;
- (e) failing to have in place and follow appropriate standards of conduct, policies and procedures to prevent sexual assault and battery and to investigate and pursue allegations of sexual abuse against the Archdiocese's priests with due diligence;
- (f) failing to have in place and follow appropriate standards of conduct, policies and procedures to prevent and end physical, sexual or psychological abuse against the plaintiff and the Class;
- (g) failing to have in place and follow appropriate standards of conduct, policies and procedures to take appropriate disciplinary action, including termination of the Archdiocese's priests for their propensity to commit acts of sexual assault and battery;
- (h) failing to have in place and follow appropriate standards of conduct, policies and procedures to ensure the safety, well-being and protection of the plaintiff and the Class;
- (i) failing to have in place and follow appropriate standards of conduct, policies and procedures to provide the plaintiff and the Class members with a program and system through which abuse of any sort would be recognized and reported to the proper authorities within the Archdiocese and externally;
- (j) failing to have in place and follow appropriate standards of conduct, policies and procedures to provide the plaintiff and the Class members with a program and system through which abuse of any sort would be recognized and reported to the proper authorities within the Archdiocese and externally;
- (k) failing to have in place and follow appropriate standards of conduct, policies and procedures to ensure that victims of abuse receive appropriate counselling and treatment.

84. The defendant knew or ought to have known that, as a consequence of the above-documented failures, and the Church's policy of secrecy, the plaintiff and the Class members

would suffer immediate and long-term harm. Such harm was not too remote as it was a direct consequence of the defendant's failures, listed above.

iii. Vicarious Liability

85. The defendant is vicariously liable for the sexual assault and battery carried out by the Archdiocese's priests during the class period.

86. The relationship between the Archdiocese's priests and the defendant was close and direct as a result of:

- (a) the Archdiocese's priests were employed by Halifax-Yarmouth and were reasonably perceived as agents of the defendant;
- (b) the defendant and its representatives had the power of assignment and supervision over the Archdiocese's priests;
- (a) the Archdiocese's priests took a vow of obedience to the bishop;
- (b) the defendant and its representatives had the power to remove the Archdiocese's priests from their posts; and
- (c) the defendant and its representatives had the power to discipline the Archdiocese's priests.

87. The defendant provided the Archdiocese's priests with opportunities to abuse their power and authority over the plaintiff and the Class members as a result of:

- (a) the Archdiocese's priests were invested by the defendant with the power, confidence and authority of the Church and were accorded with respect as representatives of the Church;
- (b) in carrying out their roles within the Church, the Archdiocese's priests were intimately involved with the religious and secular lives of the plaintiff and Class members;
- (c) by virtue of their role as priests within the Archdiocese, the Archdiocese's priests were expected and required to be in direct and intimate contact with the Archdiocese's Catholics, particularly children, with whom they interacted for lengthy periods of time;
- (d) the Archdiocese's priests organized activities, which involved and required accompanying children;

- (e) as part of the Archdiocese's activities, the Archdiocese's priests were in regular and intimate contact with children who worshipped at the Archdiocese's parishes;
- (f) the Archdiocese's priests were expected to supervise children in intimate activities, including spiritual matters and in matters ancillary to overnight activities sponsored by the Archdiocese;
- (g) the Archdiocese's priests sexual misconduct took place during activities sanctioned by the Archdiocese and while the Archdiocese's priests were exercising their influence and authority as priests of the Archdiocese; and
- (h) by virtue of their power, authority and influence, the Archdiocese's priests were allowed and encouraged by the defendant to exercise a degree of control over the plaintiff and the Class members that can be described as parental.

88. The Archdiocese's priests' wrongful acts were directly related to their relationship of psychological intimacy with the plaintiff and the Class members in their professional roles within the Archdiocese:

- (a) as a result of being priests of the Archdiocese, they were in a position of intimacy and power over the Archdiocese's Catholics, particularly children;
- (b) the defendant encouraged psychological intimacy between the Archdiocese's priests and the Catholics of the Archdiocese;
- (c) the defendant encouraged the Archdiocese's priests to stand in positions of respect and suggested that Catholics worshipping as part of the Archdiocese, and especially children, should emulate and obey the Archdiocese's priests;
- (d) the Archdiocese's priests, as representatives of God according to the Church's doctrine, purportedly taught children within the Archdiocese concepts of 'right' and 'wrong', and Catholics within the Archdiocese were obliged to accept the Archdiocese's priests' instructions in religious matters;
- (e) by virtue of their role as priests in the Archdiocese, the Archdiocese's priests were able to satisfy parents that their children were in responsible hands while in their care and control;
- (f) as a result of the Archdiocese's priests' psychological intimacy with Catholics of the Archdiocese, the plaintiff and the Class members were encouraged to submit to and not report the abuse perpetrated by the Archdiocese's priests; and
- (g) the personal identities of the Archdiocese's Catholics members of the congregation were closely intertwined with their faith and its institutional expression, which nurtured trust in the Church's hierarchy from a young age, granting the Archdiocese and its priests considerable power and control.

89. The defendant conferred upon the Archdiocese's priests an enormous degree of power relative to the plaintiff and the Class members including, but not limited to the following circumstances:

- (a) the power imbalance between the Archdiocese's priests and the Archdiocese's child and youth Catholics was intensified by the fact that parishes where the Archdiocese's priests worked were geographically isolated thereby increasing the opportunities for, and the extent and frequency of, the acts of sexual abuse;
- (b) the Class members were frequently alone with the Archdiocese's priests during which time the priests had the power and authority to instruct, order, and discipline them;
- (c) the plaintiff and the Class members were extremely vulnerable vis-à-vis the Archdiocese's priests by their age and the power that the priests had over them;
- (d) the geographical isolation of the Archdiocese's parishes contributed to the persistence of sexual abuse upon the plaintiff and the Class members as the defendant and its representatives were not in physical proximity to check in on the conduct and action of the Archdiocese's priests;
- (e) the communities in which the Archdiocese's priests worked were devoutly religious and placed the Archdiocese and the Archdiocese's priests at the center of their daily lives;
- (f) the Archdiocese's priests had enormous stature in the eyes of children and their parents due to the Archdiocese's priests' positions within the Archdiocese;
- (g) given their centrality in the communities resulting from their positions as priests within the Archdiocese, the plaintiff and the Class members perceived the Archdiocese's priests as celebrities; and
- (h) flowing from the religious guidance that the Archdiocese's priests were supposed to provide as part of their positions within the Archdiocese, the Archdiocese's priests had open access to interact in intimate settings with the plaintiff and the Class members.

H. Damages

90. The defendant knew or ought to have known that because of its negligence, breach of fiduciary duty and vicarious liability, the plaintiff and the Class members would suffer significant physical, mental, emotional, psychological and spiritual harm which would adversely affect their relationships with their families and the community at large.

91. As a result of the defendant's negligence, breach of fiduciary duty and vicarious liability, the class members suffered and continue to suffer damages which include, but are not limited to:

- (a) physical consequences such as anal lacerations and bleeding, and broken bones and skin;
- (b) emotional and psychological damages;
- (c) exacerbation of mental disability and deprivation of opportunities to heal;
- (d) impairment of mental and emotional health and well-being;
- (e) an impaired ability to trust other persons;
- (f) an impaired ability to participate in normal family affairs and relationships;
- (g) alienation from family members;
- (h) depression, anxiety, emotional distress, mental anguish and nervous shock;
- (i) post-traumatic stress disorder;
- (j) pain and suffering;
- (k) a loss of self-esteem and feelings of humiliation and degradation;
- (l) an impaired ability to obtain and sustain employment, resulting either in lost or reduced income and ongoing loss of income;
- (m) an impaired ability to deal with persons in positions of authority;
- (n) an impaired ability to trust other individuals or to sustain relationships;
- (o) a sense of isolation and separateness from their community;
- (p) a requirement for medical or psychological treatment and counselling;
- (q) an impaired ability to enjoy and participate in recreational, social and employment activities;
- (r) an impaired ability to engage in spiritual communities and beliefs;
- (s) loss of friendship and companionship;
- (t) suicide attempts and suicide;
- (u) alcoholism and drug dependency;
- (v) sexual disorientation;
- (w) loss of general enjoyment of life; and
- (x) such other and further damages as the plaintiff may advise and this Honourable Court may consider.

92. The damages sustained by the plaintiff and the Class members were exacerbated by the defendant's failure to provide appropriate counselling and treatment required after incidents of assault and battery carried out by the Archdiocese's priests.

93. As a result of the injuries listed above, the plaintiff and the Class members have required and will continue to require further medical treatment, rehabilitation, counselling and other care. As a result of the defendant's conduct, many Class members will require future medical care and rehabilitative treatment or have already required such services.

I. Punitive Damages

94. The defendant's high handed and callous conduct warrants the condemnation of this Honourable Court. The defendant conducted its affairs with wanton and callous disregard for the interests, safety and well-being of the plaintiff and the Class members.

95. At all material times, the defendant knew about the Archdiocese's priests' abuse towards the plaintiff and the Class members. The defendant discouraged Class members from pursuing civil and criminal legal remedies. Despite their knowledge of the Archdiocese's priests' misconduct, the defendant allowed the Archdiocese's priests to continue serving as priests within the Archdiocese and perpetrate harm to Class members.

96. The defendant breached, and continues to breach, its duty of care and fiduciary duty owed to the plaintiff and the Class members. Punitive damages are required to demonstrate to other institutions that such willfully irresponsible and tortious behaviour will not be tolerated and will serve as a deterrent to other religious institutions responsible for the spiritual well-being of parishioners vulnerable to the wishes and desires of clergymen.

J. Relief Sought

97. The plaintiff claims:

- (a) an order certifying this proceeding as a class proceeding and appointing the plaintiff as representative plaintiff for the class;

- (b) a declaration that the defendant breached its fiduciary and common law duties and are vicariously liable to the plaintiff and the class members for the sexual assault and battery committed by the Archdiocese's priests;
- (c) a declaration that the defendant is liable to the plaintiff and the class members for the damages caused as a result of breaching their fiduciary and common law duties and are vicariously liable for the sexual assault and battery committed by the Archdiocese's priests;
- (d) disclosure of the names of all the Archdiocese's priests against whom allegations of sexual misconduct have been made;
- (e) general and special damages for negligence, breach of fiduciary duty, and vicarious liability in the amount to be determined by this Honourable Court;
- (f) punitive damages in the amount to be determined by this Honourable Court;
- (g) prejudgment and postjudgment interest pursuant to the *Judicature Act*, RSNS 1989, c 240;
- (h) costs of this action on a substantial indemnity basis or in an amount that provides full indemnity;
- (i) pursuant to section 36 of the *Class Proceedings Act*, SNS 2007, c 28, the costs of notice and of administering the plan of distribution of the recovery in this action and, plus applicable taxes; and
- (j) such other and further relief as this Honourable Court deems just and appropriate in all the circumstances.

98. The plaintiff requests that the trial of this action take place in the City of Halifax, in the Province of Nova Scotia.

DATED at Halifax, this / day of August, 2018.



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TO: The Prothonotary

AND TO: The defendant, its solicitors or agents.